

**Nos. 16-1191, 16-1192, 16-1256 & 16-1258**

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**In the United States Court of Appeals  
For the District of Columbia Circuit**

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BELLAGIO, LLC d/b/a BELLAGIO LAS VEGAS, and  
THE MIRAGE CASINO HOTEL d/b/a THE MIRAGE,  
Petitioners/Cross-Respondents,

v.

NATIONAL LABOR RELATIONS BOARD,  
Respondent/Cross-Petitioner,

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ON PETITIONS FOR REVIEW AND CROSS-PETITIONS FOR  
ENFORCEMENT OF ORDERS OF THE NATIONAL LABOR RELATIONS  
BOARD

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**JOINT APPENDIX  
VOLUME I OF II**

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Suite 600  
Las Vegas, NV 89169  
(702) 921-2460

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Case Nos. 16-1191 and 16-1258**

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FORM NLRB-502 (RC)  
(4-15)UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**RC PETITION**

DO NOT WRITE IN THIS SPACE

Case No.

28-RC-154081

Date Filed

06/12/2015

**INSTRUCTIONS:** Unless e-Filed using the Agency's website, [www.nlr.gov](http://www.nlr.gov), submit an original of this Petition to an NLRB office in the Region in which the employer concerned is located. The petition must be accompanied by both a showing of interest (see 6b below) and a certificate of service showing service on the employer and all other parties named in the petition of: (1) the petition; (2) Statement of Position form (Form NLRB-505); and (3) Description of Representation Case Procedures (Form NLRB 4812). The showing of interest should only be filed with the NLRB and should not be served on the employer or any other party.

1. PURPOSE OF THIS PETITION: RC-CERTIFICATION OF REPRESENTATIVE - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees. The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.

2a. Name of Employer

Bellagio Hotel

2b. Address(es) of Establishment(s) involved (Street and number, city, State, ZIP code)

3600 S. Las Vegas BLVD. Las Vegas, Nevada

3a. Employer Representative - Name and Title

Beth Foster Director of Human Resources

3b. Address (if same as 2b - state same)

same

3c. Tel. No.

702-693-8261

3d. Cell No.

3e. Fax No.

702-693-8579

3f. E-Mail Address

befoster@bellagioresort.com

4a. Type of Establishment (Factory, mine, wholesaler, etc.)

Hotel and Casino

4b. Principal product or service

Gaming, Lodging, Entertainment

5a. City and State where unit is located:

Las Vegas, Nevada

5b. Description of Unit Involved

Included: All full time and part time Surveillance Techs at the Employers Facility

Excluded: All other employees including office, clerical, professional, guards, and supervisors as defined in the act.

6a. No. of Employees in Unit:

4

6b. Do a substantial number (30% or more) of the employees in the unit wish to be represented by the Petitioner? Yes ☒ No ☐

Check One:

☐

7a. Request for recognition as Bargaining Representative was made on (Date) \_\_\_\_\_ and Employer declined recognition on or about \_\_\_\_\_ (Date) (If no reply received, so state).

☐

7b. Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.

8a. Name of Recognized or Certified Bargaining Agent (If none, so state).

none

8b. Address

N/A

8c. Tel. No.

N/A

8d. Cell No.

N/A

8e. Fax No.

N/A

8f. E-Mail Address

N/A

8g. Affiliation, if any

N/A

8h. Date of Recognition or Certification

N/A

8i. Expiration Date of Current or Most Recent Contract, if any (Month, Day, Year)

N/A

9. Is there now a strike or picketing at the Employer's establishment(s) involved? no If so, approximately how many employees are participating? U(Name of labor organization) N/A, has picketed the Employer since (Month, Day, Year) N/A.

10. Organizations or individuals other than Petitioner and those named in items 8 and 9, which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in the unit described in item 5b above. (If none, so state)

None

10a. Name

N/A

10b. Address

N/A

10c. Tel. No.

N/A

10d. Cell No.

N/A

10e. Fax No.

N/A

10f. E-Mail Address

N/A

11. Election Details: If the NLRB conducts an election in this matter, state your position with respect to any such election.

11a. Election Type: ☒ Manual ☐ Mail ☐ Mixed Manual/Mail

11b. Election Date(s):

6-22-15

11c. Election Time(s):

12am-3pm

11d. Election Location(s):

Training Room A

12a. Full Name of Petitioner (including local name and number)

International Union of Engineers Local 501, AFL-CIO

12b. Address (street and number, city, state, and ZIP code)

301 Deauville St. Las Vegas, Nevada 89106

12c. Full name of national or international labor organization of which Petitioner is an affiliate or constituent (if none, so state)

International Union of Engineers Local 501, AFL-CIO

12d. Tel. No.

702-382-8452

12e. Cell No.

702-622-0846

12f. Fax No.

702-386-5813

12g. E-Mail Address

jsoto@local501.org

13. Representative of the Petitioner who will accept service of all papers for purposes of the representation proceeding.

13a. Name and Title

Jose Soto Director of Organizing

13b. Address (street and number, city, state, and ZIP code)

301 Deauville St. Las Vegas, Nevada 89106

13c. Tel. No.

702-382-8452

13d. Cell No.

702-622-0846

13e. Fax No.

702-386-5813

13f. E-Mail Address

jsoto@local501.org

I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.

Name (Print)

Jose Soto

Signature



Title

Director of Organizing

Date

6-12-15

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

## PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

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**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 28**

**BELLAGIO, LLC**

**Employer,**

**and**

**INTERNATIONAL UNION OF  
OPERATING ENGINEERS LOCAL 501,**

**Petitioner.**

**Case No. 28-RC-154081**

**EMPLOYER'S MOTION TO DISMISS THE PETITION**

Gary C. Moss  
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*Counsel for the Employer*

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 28**

**BELLAGIO, LLC**

**Employer,**

**and**

**INTERNATIONAL UNION OF  
OPERATING ENGINEERS LOCAL 501,**

**Petitioner.**

**Case No. 28-RC-154081**

**EMPLOYER'S MOTION TO DISMISS PETITION**

Bellagio, LLC ("The Employer" or "Bellagio"), improperly named "Bellagio Hotel", hereby moves to dismiss the petition in 28-RC-154081. The petition is defective, and the Petitioner, the International Union of Operating Engineers Local 501 ("Petitioner" or the "Union") has failed to comply with the Board's Rules and Regulations.

**I. STATEMENT OF FACTS**

The Union filed the petition with Region 28 on June 12, 2015. The petition identifies an employer called "Bellagio Hotel." The Union left Section 7 of the petition blank. Attached as Exhibit A are copies of the documents that Petitioner's organizer, Richard Lile, emailed to Beth Foster, the Employer's Director of Human Resources, on June 12, 2015. The documents include an undocketed petition, a Description of Representation Case Procedures (form NLRB-4812), a Statement of Position form, and a Questionnaire on Commerce Information form. Attached as Exhibit B are copies of the Petition and accompanying papers that Christian D. Zayas, Region 28's Language Clerk, emailed to Ms. Foster at approximately 5:00 p.m. on June 12, 2015.

The email from Mr. Lile was the first contact that Ms. Foster or anyone else at Bellagio had with the Union regarding the petition. The Union did not request that the Employer recognize it as the bargaining representative of the petitioned for unit prior to filing the petition.

**II. THE PETITION SHOULD BE DISMISSED BECAUSE IT DOES NOT COMPLY WITH SECTION 102.61 OF THE BOARD'S RULES AND REGULATIONS.**

Section 102.61(a) of the Board's Rules and Regulations sets forth the requirements for RC petitions. It provides in relevant part:

Contents of petition for certification; contents of petition for decertification; contents of petition for clarification of bargaining unit; contents of petition for amendment of certification.

(a) *RC Petitions*. A petition for certification, when filed by an employee or group of employees or an individual or labor organization acting in their behalf, shall contain the following:

...

(8) A statement that the employer declines to recognize the petitioner as the representative within the meaning of Section 9(a) of the Act or that the labor organization is currently recognized but desires certification under the Act.

§ 102.61 (emphasis added).

Section 102.61(a)'s use of the phrase "shall contain" "indicates an intent to impose discretionless obligations." *Federal Express Corp. v. Holowecki*, 552 U. S. 389, 400 (2008). Put another way, the requirement of Section 102.61(a)(8) must be satisfied or the petition is invalid. The Board's newly adopted petition form – Form NLRB-502 (RC) – effectuates that mandate. Section 7 requires the petitioner to record the actual date on which recognition as Bargaining Representative was requested as well as the date on which the Employer declined representation (or failed to answer).

In this case, the petition does not satisfy the mandatory obligations imposed by Section 102.61(a). The petition does not include a “statement that the employer declines to recognize the petitioner as the representative within the meaning of Section 9(a).” The Union left Section 7 of the petition completely blank and failed to ever request that the Employer recognize it as the representative of the petitioned for unit.

The Union may argue that its blatant failure to comply with the Board’s regulations can be excused. That conclusion, however, is not permitted by the language in the Board’s Rules and Regulations. Several other sections of the Board’s newly adopted representation regulations use the word “shall” to denote mandatory obligations, including the sections pertaining to the voter list, the Notice of Election and the statement of position.<sup>1</sup> As the Supreme Court has noted, “identical words used in different parts of the same act are intended to have the same meaning.” *Atlantic Cleaners & Dyers v. United States*, 286 U.S. 427, 433 (1932). In drafting and adopting the amended representation election rules, the Board used the word *shall* to signify a *mandatory* obligation. If the Board were to hold that compliance with the mandatory language of Section 102.61(a) was not obligatory, it would be required to find that Sections 102.62(d) (voter list),

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<sup>1</sup> For example, Section 102.60 provides that a petition “*may* be filed by any employee or group of employees or any individual or labor organization acting in their behalf.” (emphasis added). It also provides that “[p]etitions under this section *shall* be in writing and signed, and either *shall* be sworn to before a notary public, Board agent, or other person duly authorized by law to administer oaths and take acknowledgments or *shall* contain a declaration by the person signing it, under the penalty of perjury, that its contents are true and correct (see 28 U.S.C. 1746).” Section 102.62(d), which establishes the requirements for the voter list similarly provides that the employer “*shall* provide to the regional director and the parties named in the agreement or direction a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular (“cell”) telephone numbers) of all eligible voters. The employer *shall* also include in a separate section of that list the same information for those individuals whom the parties have agreed should be permitted to vote[.]” Section 102.62(e), which concerns the notice of election, uses the word *shall* repeatedly including in the sentences which provide “The employer *shall* post and distribute the Notice of Election in accordance with § 102.67(k).”

102.62(e) (Notice of Election), and 102.63 (Notice and Statement of Position) are also permissive. The language of the regulation does not permit a different result.

### III. CONCLUSION

The Union's petition does not satisfy the mandatory obligations in Section 102.61(a)(8). It is invalid and must be dismissed.

Dated this 16th day of June, 2015.

Respectfully submitted,

JACKSON LEWIS P.C.

By: /s/ Paul T. Trimmer  
Gary C. Moss  
Paul T. Trimmer  
3800 Howard Hughes Parkway, Suite 600  
Las Vegas, Nevada 89169  
(702) 921-2460  
*Counsel for the Employer*

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 28**

**BELLAGIO, LLC**

**Employer,**

**and**

**INTERNATIONAL UNION OF  
OPERATING ENGINEERS LOCAL 501,**

**Petitioner.**

**Case No. 28-RC-154081**

**CERTIFICATE OF SERVICE**

In addition to filing this Motion to Dismiss via the NLRB's electronic filing system, we hereby certify that copies have been served this 16th day of June, 2015, by email upon:

Mr. Cornele A. Overstreet  
Regional Director  
National Labor Relations Board  
Region 28  
2600 N. Central Avenue, Suite 1400  
Phoenix, Arizona 85004-3019  
Email: cornele.overstreet@nrlrb.gov

Nathan Higley  
Field Attorney  
300 Las Vegas Blvd. South, Suite 2-901  
Las Vegas, NV 89101  
nathan.higley@nrlrb.gov

Jose Soto  
301 Deauville St.  
Las Vegas, NV 89106  
jsoto@local501.org

\_\_\_\_\_  
/s/ Paul T. Trimmer  
Paul T. Trimmer

# **EXHIBIT A**



FORM NLRB-502 (RC)  
(4-15)UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**RC PETITION**

DO NOT WRITE IN THIS SPACE

Case No.

Date Filed

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1. PURPOSE OF THIS PETITION: RC-CERTIFICATION OF REPRESENTATIVE - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees. The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.

2a. Name of Employer Bellagio Hotel	2b. Address(es) of Establishment(s) involved (Street and number, city, State, ZIP code) 3600 S. Las Vegas BLVD. Las Vegas, Nevada
3a. Employer Representative - Name and Title Beth Foster Director of Human Resources	3b. Address (If same as 2b - state same) same
3c. Tel. No. 702-693-8261	3d. Cell No. 3e. Fax No. 702-693-8579
3f. E-Mail Address befoster@bellagioresort.com	
4a. Type of Establishment (Factory, mine, wholesaler, etc.) Hotel and Casino	4b. Principal product or service Gaming, Lodging, Entertainment
5a. City and State where unit is located: Las Vegas, Nevada	

6b. Description of Unit Involved  
Included: All full time and part time Surveillance Techs at the Employers Facility  
Excluded: All other employees including office, clerical, professional, guards, and supervisors as defined in the act.

Check One: ☐ 7a. Request for recognition as Bargaining Representative was made on (Date) \_\_\_\_\_ and Employer declined recognition on or about \_\_\_\_\_ (Date) (If no reply received, so state).  
☐ 7b. Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.

8a. Name of Recognized or Certified Bargaining Agent (If none, so state). none	8b. Address N/A
8c. Tel No. N/A	8d. Cell No. N/A
8e. Fax No. N/A	8f. E-Mail Address N/A
8g. Affiliation, if any N/A	8h. Date of Recognition or Certification N/A
8i. Expiration Date of Current or Most Recent Contract, if any (Month, Day, Year) N/A	

9. Is there now a strike or picketing at the Employer's establishment(s) involved? no. If so, approximately how many employees are participating? U  
(Name of labor organization) N/A, has picketed the Employer since (Month, Day, Year) N/A

10. Organizations or individuals other than Petitioner and those named in items 8 and 9, which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in the unit described in item 6b above. (If none, so state)  
None

10a. Name N/A	10b. Address N/A	10c. Tel. No. N/A	10d. Cell No. N/A
		10e. Fax No. N/A	10f. E-Mail Address N/A

11. Election Details: If the NLRB conducts an election in this matter, state your position with respect to any such election.

11a. Election Type: <input checked="" type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail	11b. Election Date(s): 6-22-15	11c. Election Time(s): 12am-3pm	11d. Election Location(s): Training Room A
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12a. Full Name of Petitioner (including local name and number) International Union of Engineers Local 501, AFL-CIO	12b. Address (street and number, city, state, and ZIP code) 301 Deauville St. Las Vegas, Nevada 89106
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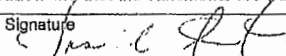
12c. Full name of national or international labor organization of which Petitioner is an affiliate or constituent (if none, so state)  
International Union of Engineers Local 501, AFL-CIO

12d. Tel No. 702-382-8452	12e. Cell No. 702-622-0846	12f. Fax No. 702-386-5813	12g. E-Mail Address jsoto@local501.org
------------------------------	-------------------------------	------------------------------	---

13. Representative of the Petitioner who will accept service of all papers for purposes of the representation proceeding.

13a. Name and Title Jose Soto Director of Organizing	13b. Address (street and number, city, state, and ZIP code) 301 Deauville St. Las Vegas, Nevada 89106
13c. Tel No. 702-382-8452	13d. Cell No. 702-622-0846
13e. Fax No. 702-386-5813	13f. E-Mail Address jsoto@local501.org

I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.

Name (Print) Jose Soto	Signature 	Title Director of Organizing	Date 6-12-15
---------------------------	--	---------------------------------	-----------------

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

## PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

**REVIEW THE FOLLOWING IMPORTANT INFORMATION  
BEFORE FILLING OUT A STATEMENT OF POSITION FORM**

**Completing and Filing this Form:** The Notice of Hearing indicates which parties are responsible for completing the form. If you are required to complete the form, you must have it signed by an authorized representative and file a completed copy (including all attachments) with the RD and serve copies on all parties named in the petition by the date and time established for its submission. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You may E-File your Statement of Position at [www.nlr.gov](http://www.nlr.gov), but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed.**

*Note: Non-employer parties who complete this Statement of Position are NOT required to complete items 8f and 8g of the form, or to provide a commerce questionnaire or the lists described in item 7. In RM cases, the employer is NOT required to complete items 3, 5, 6, and 8a-8e of the form.*

**Required Lists:** The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at <http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015>.

**Consequences of Failure to Supply Information:** Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

FORM NLRB-505  
(4-15)UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**STATEMENT OF POSITION****DO NOT WRITE IN THIS SPACE**

Case No.

Date Filed

**INSTRUCTIONS:** Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.  
**Note:** Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7. In RM cases, the employer is NOT required to respond to items 3, 5, 6, and 8a-8e below.

1a. Full name of party filing Statement of Position		1c. Business Phone:	1e. Fax No.:
1b. Address (Street and number, city, state, and ZIP code)		1d. Cell No.:	1f. e-Mail Address
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)			
3. Do you agree that the proposed unit is appropriate? <input type="checkbox"/> Yes <input type="checkbox"/> No (If not, answer 3a and 3b.)			
a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards.)			
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.			
Added		Excluded	
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.			
5. Is there a bar to conducting an election in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, state the basis for your position.			
6. Describe all other issues you intend to raise at the pre-election hearing.			
7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at <a href="http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015">http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015</a> . (a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be <i>added</i> to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be <i>excluded</i> from the proposed unit to make it an			
State your position with respect to the details of any election that may be conducted in this matter. 8a. Type: <input type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail			
8b. Date(s)	8c. Time(s)	8d. Location(s)	
8e. Eligibility Period (e.g. special eligibility formula)	8f. Last Payroll Period Ending Date	8g. Length of payroll period <input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length)	
9. Representative who will accept service of all papers for purposes of the representation proceeding			
9a. Full name and title of authorized representative	9b. Signature of authorized representative	9c. Date	
9d. Address (Street and number, city, state, and ZIP code)			9e. e-Mail Address
9f. Business Phone No.:	9g. Fax No.	9h. Cell No.	

WILLFUL FALSE STATEMENTS ON THIS STATEMENT OF POSITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. Code, Title 18, Section 1001)

**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.



FORM NLRB-4812  
(4-15)

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD

**DESCRIPTION OF REPRESENTATION CASE PROCEDURES  
IN CERTIFICATION AND DECERTIFICATION CASES**

The National Labor Relations Act grants employees the right to bargain collectively through representatives of their own choosing and to refrain from such activity. A party may file an RC, RD or RM petition with the National Labor Relations Board (NLRB) to conduct a secret ballot election to determine whether a representative will represent, or continue to represent, a unit of employees. An RC petition is generally filed by a union that desires to be certified as the bargaining representative. An RD petition is filed by employees who seek to remove the currently recognized union as the bargaining representative. An RM petition is filed by an employer who seeks an election because one or more individuals or unions have sought recognition as the bargaining representative, or based on a reasonable belief supported by objective considerations that the currently recognized union has lost its majority status. This form generally describes representation case procedures in RC, RD and RM cases, also referred to as certification and decertification cases.

**Right to be Represented** – Any party to a case with the NLRB has the right to be represented by an attorney or other representative in any proceeding before the NLRB. A party wishing to have a representative appear on its behalf should have the representative complete a Notice of Appearance (Form NLRB-4701), and E-File it at [www.nlr.gov](http://www.nlr.gov) or forward it to the NLRB Regional Office handling the petition as soon as possible.

**Filing and Service of Petition** – A party filing an RC, RD or RM petition is required to serve a copy of its petition on the parties named in the petition along with this form and the Statement of Position form. The petitioner files the petition with the NLRB, together with (1) a certificate showing service of these documents on the other parties named in the petition, and (2) a showing of interest to support the petition. The showing of interest is not served on the other parties.

**Notice of Hearing** – After a petition in a certification or decertification case is filed with the NLRB, the NLRB reviews both the petition and the required showing of interest for sufficiency, assigns the petition a case number, and promptly sends letters to the parties notifying them of the Board agent who will be handling the case. In most cases, the letters include a Notice of Representation Hearing. Except in cases presenting unusually complex issues, this pre-election hearing is set for a date 8 days (excluding intervening federal holidays) from the date of service of the notice of hearing. Once the hearing begins, it will continue day to day until completed absent extraordinary circumstances. The Notice of Representation Hearing also sets the due date for filing and serving the Statement(s) of Position. Included with the Notice of Representation Hearing are a copy of the petition, this form, a Statement of Position form, a Notice of Petition for Election, and a letter advising how to contact the Board agent who will be handling the case and discussing those documents.

**Hearing Postponement:** The regional director may postpone the hearing for up to 2 business days upon request of a party showing special circumstances and for more than 2 business days upon request of a party showing extraordinary circumstances. A party wishing to request a postponement should make the request in writing and set forth in detail the grounds for the request. The request should include the positions of the other parties regarding the postponement. The request should be filed with the regional director. E-Filing the request is preferred, but not required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

**Statement of Position Form and List(s) of Employees** – The Statement of Position form solicits commerce and other information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. As part of its Statement of Position form, the employer also provides a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. If the employer contends that the proposed unit is not appropriate, the employer must separately list the same information for all individuals that the employer contends must be added to the proposed unit to make it an appropriate unit, and must further indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department).

Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be

FORM NLRB-4812 (CONT.)  
(4-15)

used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015).

Ordinarily the Statement of Position must be filed with the Regional Office and served on the other parties such that it is received by them by noon on the business day before the opening of the hearing. The regional director may postpone the due date for filing and serving the Statement of Position for up to 2 business days upon request of a party showing special circumstances and for more than 2 business days upon request of a party showing extraordinary circumstances. The Statement of Position form may be E-Filed but, unlike other E-Filed documents, will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Statement of Position requirement are discussed on the following page under the heading "Preclusion."

A request to postpone the hearing will not automatically be treated as a request for an extension of the Statement of Position due date. If a party wishes to request both a postponement of the hearing and a postponement of the Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

**Posting and Distribution of Notice of Petition for Election** – Within 2 business days after service of the notice of hearing, the employer must post the Notice of Petition for Election in conspicuous places, including all places where notices to employees are customarily posted, and must also distribute it electronically if the employer customarily communicates with its employees electronically. The employer must maintain the posting until the petition is dismissed or withdrawn, or the Notice of Petition for Election is replaced by the Notice of Election. The employer's failure properly to post or distribute the Notice of Petition for Election may be grounds for setting aside the election if proper and timely objections are filed.

**Election Agreements** – Elections can occur either by agreement of the parties or by direction of the regional director or the Board. Three types of agreements are available: (1) a Consent Election Agreement (Form NLRB-651); (2) a Stipulated Election Agreement (Form NLRB-652); and (3) a Full Consent Agreement (Form NLRB-5509). In the Consent Election Agreement and the Stipulated Election Agreement, the parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent. In the Consent Agreement, the parties also agree that post-election matters (election objections or determinative challenged ballots) will be resolved with finality by the regional director; whereas in the Stipulated Election Agreement, the parties agree that they may request Board review of the regional director's post-election determinations. A Full Consent Agreement provides that the regional director will make final determinations regarding all pre-election and post-election issues.

**Hearing Cancellation Based on Agreement of the Parties** – The issuance of the Notice of Representation Hearing does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments and the Board agent assigned to the case will work with the parties to enter into an election agreement, so the parties can avoid the time and expense of participating in a hearing.

**Hearing** – A hearing will be held unless the parties enter into an election agreement approved by the regional director or the petition is dismissed or withdrawn.

*Purpose of Hearing:* The purpose of a pre-election hearing is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit appropriate for the purpose of collective bargaining or, in the case of a decertification petition, concerning a unit in which a labor organization has been certified or is being currently recognized by the employer as the bargaining representative. Disputes concerning individuals' eligibility to vote or inclusion in an appropriate unit ordinarily need not be litigated or resolved before an election is conducted.

*Issues at Hearing:* Issues that might be litigated at the pre-election hearing include: jurisdiction; labor organization status; bars to elections; unit appropriateness; expanding and contracting unit issues; inclusion of professional employees with nonprofessional employees; and eligibility formulas. At the hearing, the Statement of Position will be received into evidence and, prior to the introduction of further evidence, all other parties will respond on the record to each issue raised in the Statement. The hearing officer will not receive evidence concerning any issue as to which the parties have not taken adverse positions, except for evidence regarding the Board's jurisdiction over the employer and evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the regional director determines that record evidence is necessary.

FORM NLRB-4812 (CONT.)  
(4-15)

*Preclusion:* At the hearing, a party will be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party will be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. As set forth in §102.66(d) of the Board's rules, if the employer fails to timely furnish the lists of employees, the employer will be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

*Conduct of Hearing:* If held, the hearing is usually open to the public and will be conducted by a hearing officer of the NLRB. Any party has the right to appear at any hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the existence of a question of representation. The hearing officer also has the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses will be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Parties appearing at any hearing who have or whose witnesses have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, should notify the regional director as soon as possible and request the necessary assistance.

*Official Record:* An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (*Copies of exhibits should be supplied to the hearing officer and other parties at the time the exhibit is offered in evidence.*) All statements made in the hearing room will be recorded by the official reporter while the hearing is on the record. If a party wishes to make off-the-record remarks, requests to make such remarks should be directed to the hearing officer and not to the official reporter. After the close of the hearing, any request for corrections to the record, either by stipulation or motion, should be forwarded to the regional director.

*Motions and Objections:* All motions must be in writing unless stated orally on the record at the hearing and must briefly state the relief sought and the grounds for the motion. A copy of any motion must be served immediately on the other parties to the proceeding. Motions made during the hearing are filed with the hearing officer. All other motions are filed with the regional director, except that motions made after the transfer of the record to the Board are filed with the Board. If not E-Filed, an original and two copies of written motions shall be filed. Statements of reasons in support of motions or objections should be as concise as possible. Objections shall not be deemed waived by further participation in the hearing. On appropriate request, objections may be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

*Election Details:* Prior to the close of the hearing the hearing officer will: (1) solicit the parties' positions (but will not permit litigation) on the type, date(s), time(s), and location(s) of the election and the eligibility period; (2) solicit the name, address, email address, facsimile number, and phone number of the employer's on-site representative to whom the regional director should transmit the Notice of Election if an election is directed; (3) inform the parties that the regional director will issue a decision as soon as practicable and will immediately transmit the document to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided); and (4) inform the parties of their obligations if the director directs an election and of the time for complying with those obligations.

*Oral Argument and Briefs:* Upon request, any party is entitled to a reasonable period at the close of the hearing for oral argument, which will be included in the official transcript of the hearing. At any time before the close of the hearing, any party may file a memorandum addressing relevant issues or points of



FORM NLRB-4812 (CONT.)  
(4-15)

law. *Post-hearing* briefs shall be filed only upon special permission of the regional director and within the time and addressing the subjects permitted by the regional director. If filed, copies of the memorandum or brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the memorandum or brief. No reply brief may be filed except upon special leave of the regional director. If allowed, briefs should be double-spaced on 8½ by 11 inch paper. Briefs must be filed in accordance with the provisions of Section 102.111(b) of the Board's Rules. E-Filing of briefs through the Board's website, [www.nlrb.gov](http://www.nlrb.gov), is encouraged, but not required. Facsimile transmission of briefs is NOT permitted.

**Regional Director Decision** - After the hearing, the regional director issues a decision directing an election, dismissing the petition or reopening the hearing. A request for review of the regional director's pre-election decision may be filed with the Board at any time after issuance of the decision until 14 days after a final disposition of the proceeding by the regional director. Accordingly, a party need not file a request for review before the election in order to preserve its right to contest that decision after the election. Instead, a party can wait to see whether the election results have mooted the basis of an appeal. The Board will grant a request for review only where compelling reasons exist therefor.

**Voter List** – The employer must provide to the regional director and the parties named in the election agreement or direction of election a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular ("cell") telephone numbers) of all eligible voters. (In construction industry elections, unless the parties stipulate to the contrary, also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.) The employer must also include in a separate section of the voter list the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge or those individuals who, according to the direction of election, will be permitted to vote subject to challenge.

The list of names must be alphabetized (overall or by department) and be in the same Microsoft Word file (or Microsoft Word compatible file) format as the initial lists provided with the Statement of Position form unless the parties agree to a different format or the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list must be filed electronically with the regional director and served electronically on the other parties named in the agreement or direction.

To be timely filed and served, the voter list must be *received* by the regional director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction unless a longer time is specified in the agreement or direction. A certificate of service on all parties must be filed with the regional director when the voter list is filed. The employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

**Waiver of Time to Use Voter List** – Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 days after the date when the employer must file the voter list with the Regional Office. However, the parties entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483. A waiver will not be effective unless all parties who are entitled to the list agree to waive the same number of days.

**Election** – Information about the election, requirements to post and distribute the Notice of Election, and possible proceedings after the election is available from the Regional Office and will be provided to the parties when the Notice of Election is sent to the parties.

**Withdrawal or Dismissal** – If it is determined that the NLRB does not have jurisdiction or that other criteria for proceeding to an election are not met, the petitioner is offered an opportunity to withdraw the petition. If the petitioner does not withdraw the petition, the regional director will dismiss the petition and advise the petitioner of the reason for the dismissal and of the right to appeal to the Board.

# **EXHIBIT B**





UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 28  
2600 North Central Avenue, Suite 1400  
Phoenix, AZ 85004

Agency Website: [www.nlrb.gov](http://www.nlrb.gov)  
Telephone: (602)640-2160  
Fax: (602)640-2178



Download  
NLRB  
Mobile App

**URGENT**

June 12, 2015

Bellagio Hotel  
3600 Las Vegas Boulevard South  
Las Vegas, NV 89109-4303

Re: Bellagio Hotel  
Case 28-RC-154081

Ladies and Gentlemen:

Enclosed is a copy of a petition that International Union of Engineers Local 501, AFL-CIO filed with the National Labor Relations Board (NLRB) seeking to represent certain of your employees. After a petition is filed, the employer is required to promptly take certain actions so please read this letter carefully to make sure you are aware of the employer's obligations. This letter tells you how to contact the Board agent who will be handling this matter, about the requirement to post and distribute the Notice of Petition for Election, the requirement to complete and serve a Statement of Position Form, a scheduled hearing in this matter, other information needed including a voter list, your right to be represented, and NLRB procedures.

**Investigator:** This petition will be investigated by Field Attorney Nathan A. Higley whose telephone number is (702)388-6062. The mailing address is 300 Las Vegas Boulevard South, Suite 2-901, Las Vegas, NV 89101. The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. If the agent is not available, you may contact Acting Field Examiner Supervisor Barbara Baynes whose telephone number is (702)388-6565. If appropriate, the NLRB attempts to schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

**Required Posting and Distribution of Notice:** You must post the enclosed Notice of Petition for Election by Tuesday, June 16, 2015 in conspicuous places, including all places where notices to employees are customarily posted. The Notice of Petition for Election must be posted so all pages are simultaneously visible. If you customarily communicate with your employees electronically, you must also distribute the notice electronically to them. You must maintain the posting until the petition is dismissed or withdrawn or this notice is replaced by the

Bellagio Hotel  
Case 28-RC-154081

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June 12, 2015

Notice of Election. Posting and distribution of the Notice of Petition for Election will inform the employees whose representation is at issue and the employer of their rights and obligations under the National Labor Relations Act in the representation context. Failure to post or distribute the notice may be grounds for setting aside an election if proper and timely objections are filed.

**Required Statement of Position:** In accordance with Section 102.63(b) of the Board's Rules, the employer is required to complete the enclosed Statement of Position form (including the attached Commerce Questionnaire), have it signed by an authorized representative, and file a completed copy (with all required attachments) with this office and serve it on all parties named in the petition such that it is received by them by **noon Pacific Time on June 19, 2015**. This form solicits information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. **This form may be e-Filed, but unlike other e-Filed documents, will not be timely if filed on the due date but after noon June 19, 2015.** If you have questions about this form or would like assistance in filling out this form, please contact the Board agent named above.

*List(s) of Employees:* The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015).

*Failure to Supply Information:* Failure to supply the information requested by this form may preclude you from litigating issues under Section 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party

Bellagio Hotel  
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June 12, 2015

contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§ 102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

**Notice of Hearing:** Enclosed is a Notice of Representation Hearing to be conducted at 10:00 a.m. on Monday, June 22, 2015 at a Hearing Room, 300 Las Vegas Boulevard South, Suite 2-901, Las Vegas, NV 89101, if the parties do not voluntarily agree to an election. If a hearing is necessary, the hearing will run on consecutive days until concluded unless the regional director concludes that extraordinary circumstances warrant otherwise. Before the hearing begins, the NLRB will continue to explore potential areas of agreement with the parties in order to reach an election agreement and to eliminate or limit the costs associated with formal hearings.

Upon request of a party, the regional director may postpone the hearing for up to 2 business days upon a showing of special circumstances and for more than 2 business days upon a showing of extraordinary circumstances. A party desiring a postponement should make the request to the regional director in writing, set forth in detail the grounds for the request, and include the positions of the other parties regarding the postponement. E-Filing the request is preferred, but not required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

**Other Information Needed Now:** Please submit to this office, as soon as possible, the following information needed to handle this matter:

- (a) A copy of any existing or recently expired collective-bargaining agreements, and any amendments or extensions, or any recognition agreements covering any of your employees in the unit involved in the petition (the petitioned-for unit);
- (b) The name and contact information for any other labor organization (union) claiming to represent any of the employees in the petitioned-for unit;
- (c) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any.

**Voter List:** If an election is held in this matter, the employer must transmit to this office and to the other parties to the election, an alphabetized list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal

Bellagio Hotel  
Case 28-RC-154081

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June 12, 2015

email addresses, and available home and personal cellular telephone numbers) of eligible voters. Usually, the list must be furnished within 2 business days of the issuance of the Decision and Direction of Election or approval of an election agreement. I am advising you of this requirement now, so that you will have ample time to prepare this list. When feasible, the list must be electronically filed with the Region and served electronically on the other parties. To guard against potential abuse, this list may not be used for purposes other than the representation proceeding, NLRB proceedings arising from it or other related matters.

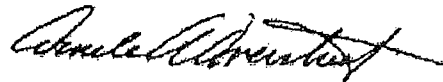
**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, [www.nlr.gov](http://www.nlr.gov), or at the Regional office upon your request.

If someone contacts you about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the NLRB. Their knowledge regarding this matter was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

**Procedures:** Also enclosed is a Description of Procedures in Certification and Decertification Cases (Form NLRB-4812). We strongly urge everyone to submit documents and other materials by E-Filing (not e-mailing) through our website, [www.nlr.gov](http://www.nlr.gov). E-Filing your documents places those documents in our official electronic case files. On all your correspondence regarding the petition, please include the case name and number indicated above.

Information about the NLRB and our customer service standards is available on our website, [www.nlr.gov](http://www.nlr.gov), or from an NLRB office upon your request. We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



Cornele A. Overstreet  
Regional Director

Enclosures: See next page.

Bellagio Hotel  
Case 28-RC-154081

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June 12, 2015

1. Petition
2. Notice of Petition for Election (Form 5492)
3. Notice of Representation Hearing
4. Description of Procedures in Certification and Decertification Cases (Form 4812)
5. Statement of Position form and Commerce Questionnaire (Form 505)

CAO/NAH/lg



FORM NLRB-502 (RO)  
(4-15)UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**RC PETITION**

DO NOT WRITE IN THIS SPACE

Case No.

28-RC-154081

Date Filed

06/12/2015

**INSTRUCTIONS:** Unless e-Filed using the Agency's website, [www.nlr.gov](http://www.nlr.gov), submit an original of this Petition to an NLRB office in the Region in which the employer concerned is located. The petition must be accompanied by both a showing of interest (see 6b below) and a certificate of service showing service on the employer and all other parties named in the petition of: (1) the petition; (2) Statement of Position form (Form NLRB-505); and (3) Description of Representation Case Procedures (Form NLRB 4812). The showing of interest should only be filed with the NLRB and should not be served on the employer or any other party.

**1. PURPOSE OF THIS PETITION: RC-CERTIFICATION OF REPRESENTATIVE** - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees. The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.

2a. Name of Employer  
Bellagio Hotel

2b. Address(es) of Establishment(s) involved (Street and number, city, State, ZIP code)  
3600 S. Las Vegas BLVD. Las Vegas, Nevada

3a. Employer Representative - Name and Title  
Beth Foster Director of Human Resources

3b. Address (if same as 2b - state same)  
same

3c. Tel. No.  
702-693-8261

3d. Cell No.

3e. Fax No.  
702-693-8579

3f. E-Mail Address  
befoster@bellagioresort.com

4a. Type of Establishment (Factory, mine, wholesaler, etc.)  
Hotel and Casino

4b. Principal product or service  
Gaming, Lodging, Entertainment

5a. City and State where unit is located:  
Las Vegas, Nevada

5b. Description of Unit Involved

Included: All full time and part time Surveillance Techs at the Employers Facility

Excluded: All other employees including office, clerical, professional, guards, and supervisors as defined in the act.

6a. No. of Employees in Unit:  
4

6b. Do a substantial number (30% or more) of the employees in the unit wish to be represented by the Petitioner? Yes ☒ No ☐

Check One: ☐ 7a. Request for recognition as Bargaining Representative was made on (Date) \_\_\_\_\_ and Employer declined recognition on or about \_\_\_\_\_ (Date) (if no reply received, so state).

☐ 7b. Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.

8a. Name of Recognized or Certified Bargaining Agent (If none, so state).  
none

8b. Address  
N/A

8c. Tel. No.  
N/A

8d. Cell No.  
N/A

8e. Fax No.  
N/A

8f. E-Mail Address  
N/A

8g. Affiliation, if any  
N/A

8h. Date of Recognition or Certification  
N/A

8i. Expiration Date of Current or Most Recent Contract, if any (Month, Day, Year)  
N/A

9. Is there now a strike or picketing at the Employer's establishment(s) involved? no If so, approximately how many employees are participating? 0

(Name of labor organization) N/A, has picketed the Employer since (Month, Day, Year) N/A

10. Organizations or individuals other than Petitioner and those named in Items 8 and 9, which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in the unit described in Item 5b above. (If none, so state)  
None

10a. Name  
N/A

10b. Address  
N/A

10c. Tel. No.  
N/A

10d. Cell No.  
N/A

10e. Fax No.  
N/A

10f. E-Mail Address  
N/A

11. Election Details: If the NLRB conducts an election in this matter, state your position with respect to any such election.

11a. Election Type: ☒ Manual ☐ Mail ☐ Mixed Manual/Mail

11b. Election Date(s):  
6-22-15

11c. Election Time(s):  
12am-3pm

11d. Election Location(s):  
Training Room A

12a. Full Name of Petitioner (including local name and number)  
International Union of Engineers Local 501, AFL-CIO

12b. Address (street and number, city, state, and ZIP code)  
301 Deauville St. Las Vegas, Nevada 89106

12c. Full name of national or international labor organization of which Petitioner is an affiliate or constituent (if none, so state)  
International Union of Engineers Local 501, AFL-CIO

12d. Tel. No.  
702-382-8452

12e. Cell No.  
702-622-0846

12f. Fax No.  
702-386-5813

12g. E-Mail Address  
jsoto@local501.org

13. Representative of the Petitioner who will accept service of all papers for purposes of the representation proceeding.

13a. Name and Title  
Jose Soto Director of Organizing

13b. Address (street and number, city, state, and ZIP code)  
301 Deauville St. Las Vegas, Nevada 89106

13c. Tel. No.  
702-382-8452

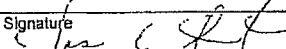
13d. Cell No.  
702-622-0846

13e. Fax No.  
702-386-5813

13f. E-Mail Address  
jsoto@local501.org

I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.

Name (Print)  
Jose Soto

Signature  


Title  
Director of Organizing

Date  
6-12-15

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

## PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

Form NLRB-5492  
(4-2015)



## National Labor Relations Board



# NOTICE OF PETITION FOR ELECTION

This notice is to inform employees that International Union of Engineers Local 501, AFL-CIO has filed a petition with the National Labor Relations Board (NLRB), a Federal agency, in Case 28-RC-154081 seeking an election to become certified as the representative of the employees of BELLAGIO HOTEL in the unit set forth below:

Included: All full time and part time Surveillance Techs at the Employers facility. Excluded: All other employees including office, clerical professional, guards, and supervisors as defined in the Act.

This notice also provides you with information about your basic rights under the National Labor Relations Act, the processing of the petition, and rules to keep NLRB elections fair and honest.

## YOU HAVE THE RIGHT under Federal Law

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of your own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustments).

## PROCESSING THIS PETITION

Elections do not necessarily occur in all cases after a petition is filed. NO FINAL DECISIONS HAVE BEEN MADE YET regarding the appropriateness of the proposed unit or whether an election will be held in this matter. If appropriate, the NLRB will first see if the parties will enter into an election agreement that specifies the method, date, time, and location of an election and the unit of employees eligible to vote. If the parties do not enter into an election agreement, usually a hearing is held to receive evidence on the appropriateness of the unit and other issues in dispute. After a hearing, an election may be directed by the NLRB, if appropriate.

IF AN ELECTION IS HELD, it will be conducted by the NLRB by secret ballot and Notices of Election will be posted before the election giving complete details for voting.

## ELECTION RULES

Form NLRB-5492  
(4-2015)

The NLRB applies rules that are intended to keep its elections fair and honest and that result in a free choice. If agents of any party act in such a way as to interfere with your right to a free election, the election can be set aside by the NLRB. Where appropriate the NLRB provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with employees' rights and may result in setting aside the election:

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or the mail ballots are dispatched
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes

Please be assured that IF AN ELECTION IS HELD, every effort will be made to protect your right to a free choice under the law. Improper conduct will not be permitted. All parties are expected to cooperate fully with the NLRB in maintaining basic principles of a fair election as required by law. The NLRB as an agency of the United States Government does not endorse any choice in the election.

For additional information about the processing of petitions, go to [www.nlr.gov](http://www.nlr.gov) or contact the NLRB at (702)388-6416.

**THIS IS AN OFFICIAL GOVERNMENT NOTICE AND MUST NOT BE DEFACED BY ANYONE. IT MUST REMAIN POSTED WITH ALL PAGES SIMULTANEOUSLY VISIBLE UNTIL REPLACED BY THE NOTICE OF ELECTION OR THE PETITION IS DISMISSED OR WITHDRAWN.**



**National Labor Relations Board**







UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 28



**BELLAGIO HOTEL**

**Employer**

**and**

**Case 28-RC-154081**

**MGM MIRAGE HOTEL CASINO**

**Employer**

**and**

**Case 28-RC-154083**

**ARIA HOTEL**

**Employer**

**and**

**Case 28-RC-154093**

**MGM GRAND LAS VEGAS**

**Employer**

**and**

**Case 28-RC-154099**

**INTERNATIONAL UNION OF ENGINEERS  
LOCAL 501, AFL-CIO**

**Petitioner**

**NOTICE OF REPRESENTATION HEARINGS AND ORDER  
SETTING HEARINGS TO BE HELD SERIATIM**

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act. In order to effectuate the purposes of the Act, for administrative convenience, and to avoid unnecessary costs or delay, I HEREBY ORDER the hearings to be held seriatim, one case following the other.

**YOU ARE HEREBY NOTIFIED** that, pursuant to Sections 3(b) and 9(c) of the Act, at 10:00 a.m. on **Monday, June 22, 2015** and on consecutive days thereafter until concluded, at the Hearing Room of the National Labor Relations Board offices located at, 300 Las Vegas Boulevard South, Suite 2-901, Las Vegas, NV 89101, hearings will be conducted before a hearing officer of the National Labor Relations Board. At the hearings, the parties will have the right to appear in person or otherwise, and give testimony.

**YOU ARE FURTHER NOTIFIED** that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, the Employers must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that is received by them by no later than **noon** Pacific time on **June 19, 2015**. The Statement of Position may be E-Filed but, unlike other E-Filed documents, must be filed by noon Pacific on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position is not required to be filed.

Dated: June 12, 2015



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Cornele A. Overstreet, Regional Director

FORM NLRB-4812  
(4-15)

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD

**DESCRIPTION OF REPRESENTATION CASE PROCEDURES  
IN CERTIFICATION AND DECERTIFICATION CASES**

The National Labor Relations Act grants employees the right to bargain collectively through representatives of their own choosing and to refrain from such activity. A party may file an RC, RD or RM petition with the National Labor Relations Board (NLRB) to conduct a secret ballot election to determine whether a representative will represent, or continue to represent, a unit of employees. An RC petition is generally filed by a union that desires to be certified as the bargaining representative. An RD petition is filed by employees who seek to remove the currently recognized union as the bargaining representative. An RM petition is filed by an employer who seeks an election because one or more individuals or unions have sought recognition as the bargaining representative, or based on a reasonable belief supported by objective considerations that the currently recognized union has lost its majority status. This form generally describes representation case procedures in RC, RD and RM cases, also referred to as certification and decertification cases.

**Right to be Represented** – Any party to a case with the NLRB has the right to be represented by an attorney or other representative in any proceeding before the NLRB. A party wishing to have a representative appear on its behalf should have the representative complete a Notice of Appearance (Form NLRB-4701), and E-File it at [www.nlr.gov](http://www.nlr.gov) or forward it to the NLRB Regional Office handling the petition as soon as possible.

**Filing and Service of Petition** – A party filing an RC, RD or RM petition is required to serve a copy of its petition on the parties named in the petition along with this form and the Statement of Position form. The petitioner files the petition with the NLRB, together with (1) a certificate showing service of these documents on the other parties named in the petition, and (2) a showing of interest to support the petition. The showing of interest is not served on the other parties.

**Notice of Hearing** – After a petition in a certification or decertification case is filed with the NLRB, the NLRB reviews both the petition and the required showing of interest for sufficiency, assigns the petition a case number, and promptly sends letters to the parties notifying them of the Board agent who will be handling the case. In most cases, the letters include a Notice of Representation Hearing. Except in cases presenting unusually complex issues, this pre-election hearing is set for a date 8 days (excluding intervening federal holidays) from the date of service of the notice of hearing. Once the hearing begins, it will continue day to day until completed absent extraordinary circumstances. The Notice of Representation Hearing also sets the due date for filing and serving the Statement(s) of Position. Included with the Notice of Representation Hearing are a copy of the petition, this form, a Statement of Position form, a Notice of Petition for Election, and a letter advising how to contact the Board agent who will be handling the case and discussing those documents.

**Hearing Postponement:** The regional director may postpone the hearing for up to 2 business days upon request of a party showing special circumstances and for more than 2 business days upon request of a party showing extraordinary circumstances. A party wishing to request a postponement should make the request in writing and set forth in detail the grounds for the request. The request should include the positions of the other parties regarding the postponement. The request should be filed with the regional director. E-Filing the request is preferred, but not required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

**Statement of Position Form and List(s) of Employees** – The Statement of Position form solicits commerce and other information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. As part of its Statement of Position form, the employer also provides a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. If the employer contends that the proposed unit is not appropriate, the employer must separately list the same information for all individuals that the employer contends must be added to the proposed unit to make it an appropriate unit, and must further indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department).

Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list

FORM NLRB-4812 (CONT.)  
(4-15)

must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlrb.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlrb.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015).

Ordinarily the Statement of Position must be filed with the Regional Office and served on the other parties such that it is received by them by noon on the business day before the opening of the hearing. The regional director may postpone the due date for filing and serving the Statement of Position for up to 2 business days upon request of a party showing special circumstances and for more than 2 business days upon request of a party showing extraordinary circumstances. The Statement of Position form may be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Statement of Position requirement are discussed on the following page under the heading "Preclusion."

A request to postpone the hearing will not automatically be treated as a request for an extension of the Statement of Position due date. If a party wishes to request both a postponement of the hearing and a postponement of the Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

**Posting and Distribution of Notice of Petition for Election** – Within 2 business days after service of the notice of hearing, the employer must post the Notice of Petition for Election in conspicuous places, including all places where notices to employees are customarily posted, and must also distribute it electronically if the employer customarily communicates with its employees electronically. The employer must maintain the posting until the petition is dismissed or withdrawn, or the Notice of Petition for Election is replaced by the Notice of Election. The employer's failure properly to post or distribute the Notice of Petition for Election may be grounds for setting aside the election if proper and timely objections are filed.

**Election Agreements** – Elections can occur either by agreement of the parties or by direction of the regional director or the Board. Three types of agreements are available: (1) a Consent Election Agreement (Form NLRB-651); (2) a Stipulated Election Agreement (Form NLRB-652); and (3) a Full Consent Agreement (Form NLRB-5509). In the Consent Election Agreement and the Stipulated Election Agreement, the parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent. In the Consent Agreement, the parties also agree that post-election matters (election objections or determinative challenged ballots) will be resolved with finality by the regional director; whereas in the Stipulated Election Agreement, the parties agree that they may request Board review of the regional director's post-election determinations. A Full Consent Agreement provides that the regional director will make final determinations regarding all pre-election and post-election issues.

**Hearing Cancellation Based on Agreement of the Parties** – The issuance of the Notice of Representation Hearing does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments and the Board agent assigned to the case will work with the parties to enter into an election agreement, so the parties can avoid the time and expense of participating in a hearing.

**Hearing** – A hearing will be held unless the parties enter into an election agreement approved by the regional director or the petition is dismissed or withdrawn.

*Purpose of Hearing:* The purpose of a pre-election hearing is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit appropriate for the purpose of collective bargaining or, in the case of a decertification petition, concerning a unit in which a labor organization has been certified or is being currently recognized by the employer as the bargaining representative. Disputes concerning individuals' eligibility to vote or inclusion in an appropriate unit ordinarily need not be litigated or resolved before an election is conducted.

*Issues at Hearing:* Issues that might be litigated at the pre-election hearing include: jurisdiction; labor organization status; bars to elections; unit appropriateness; expanding and contracting unit issues; inclusion of professional employees with nonprofessional employees; and eligibility formulas. At the hearing, the Statement of Position will be received into evidence and, prior to the introduction of further evidence, all other parties will respond on the record to each issue raised in the Statement. The hearing officer will not receive evidence concerning any issue as to which the parties have not taken adverse positions, except for evidence regarding the Board's jurisdiction over the employer and evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the regional director determines that record evidence is necessary.



FORM NLRB-4812 (CONT.)  
(4-15)

**Preclusion:** At the hearing, a party will be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party will be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. As set forth in §102.66(d) of the Board's rules, if the employer fails to timely furnish the lists of employees, the employer will be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

**Conduct of Hearing:** If held, the hearing is usually open to the public and will be conducted by a hearing officer of the NLRB. Any party has the right to appear at any hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the existence of a question of representation. The hearing officer also has the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses will be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Parties appearing at any hearing who have or whose witnesses have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, should notify the regional director as soon as possible and request the necessary assistance.

**Official Record:** An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (Copies of exhibits should be supplied to the hearing officer and other parties at the time the exhibit is offered in evidence.) All statements made in the hearing room will be recorded by the official reporter while the hearing is on the record. If a party wishes to make off-the-record remarks, requests to make such remarks should be directed to the hearing officer and not to the official reporter. After the close of the hearing, any request for corrections to the record, either by stipulation or motion, should be forwarded to the regional director.

**Motions and Objections:** All motions must be in writing unless stated orally on the record at the hearing and must briefly state the relief sought and the grounds for the motion. A copy of any motion must be served immediately on the other parties to the proceeding. Motions made during the hearing are filed with the hearing officer. All other motions are filed with the regional director, except that motions made after the transfer of the record to the Board are filed with the Board. If not E-Filed, an original and two copies of written motions shall be filed. Statements of reasons in support of motions or objections should be as concise as possible. Objections shall not be deemed waived by further participation in the hearing. On appropriate request, objections may be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

**Election Details:** Prior to the close of the hearing the hearing officer will: (1) solicit the parties' positions (but will not permit litigation) on the type, date(s), time(s), and location(s) of the election and the eligibility period; (2) solicit the name, address, email address, facsimile number, and phone number of the employer's on-site representative to whom the regional director should transmit the Notice of Election if an election is directed; (3) inform the parties that the regional director will issue a decision as soon as practicable and will immediately transmit the document to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided); and (4) inform the parties of their obligations if the director directs an election and of the time for complying with those obligations.

**Oral Argument and Briefs:** Upon request, any party is entitled to a reasonable period at the close of the hearing for oral argument, which will be included in the official transcript of the hearing. At any time before the close of the hearing, any party may file a memorandum addressing relevant issues or points of law. Post-hearing briefs shall be filed only upon special permission of the regional director and within the

FORM NLRB-4812 (CONT.)  
(4-15)

time and addressing the subjects permitted by the regional director. If filed, copies of the memorandum or brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the memorandum or brief. No reply brief may be filed except upon special leave of the regional director. If allowed, briefs should be double-spaced on 8½ by 11 inch paper. Briefs must be filed in accordance with the provisions of Section 102.111(b) of the Board's Rules. E-Filing of briefs through the Board's website, [www.nlrb.gov](http://www.nlrb.gov), is encouraged, but not required. Facsimile transmission of briefs is NOT permitted.

**Regional Director Decision** - After the hearing, the regional director issues a decision directing an election, dismissing the petition or reopening the hearing. A request for review of the regional director's pre-election decision may be filed with the Board at any time after issuance of the decision until 14 days after a final disposition of the proceeding by the regional director. Accordingly, a party need not file a request for review before the election in order to preserve its right to contest that decision after the election. Instead, a party can wait to see whether the election results have mooted the basis of an appeal. The Board will grant a request for review only where compelling reasons exist therefore.

**Voter List** - The employer must provide to the regional director and the parties named in the election agreement or direction of election a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular ("cell") telephone numbers) of all eligible voters. (In construction industry elections, unless the parties stipulate to the contrary, also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.) The employer must also include in a separate section of the voter list the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge or those individuals who, according to the direction of election, will be permitted to vote subject to challenge.

The list of names must be alphabetized (overall or by department) and be in the same Microsoft Word file (or Microsoft Word compatible file) format as the initial lists provided with the Statement of Position form unless the parties agree to a different format or the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list must be filed electronically with the regional director and served electronically on the other parties named in the agreement or direction.

To be timely filed and served, the voter list must be received by the regional director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction unless a longer time is specified in the agreement or direction. A certificate of service on all parties must be filed with the regional director when the voter list is filed. The employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

**Waiver of Time to Use Voter List** - Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 days after the date when the employer must file the voter list with the Regional Office. However, the parties entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483. A waiver will not be effective unless all parties who are entitled to the list agree to waive the same number of days.

**Election** - Information about the election, requirements to post and distribute the Notice of Election, and possible proceedings after the election is available from the Regional Office and will be provided to the parties when the Notice of Election is sent to the parties.

**Withdrawal or Dismissal** - If it is determined that the NLRB does not have jurisdiction or that other criteria for proceeding to an election are not met, the petitioner is offered an opportunity to withdraw the petition. If the petitioner does not withdraw the petition, the regional director will dismiss the petition and advise the petitioner of the reason for the dismissal and of the right to appeal to the Board.



**REVIEW THE FOLLOWING IMPORTANT INFORMATION  
BEFORE FILLING OUT A STATEMENT OF POSITION FORM**

**Completing and Filing this Form:** The Notice of Hearing indicates which parties are responsible for completing the form. If you are required to complete the form, you must have it signed by an authorized representative and file a completed copy (including all attachments) with the RD and serve copies on all parties named in the petition by the date and time established for its submission. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You may E-File your Statement of Position at [www.nlr.gov](http://www.nlr.gov), but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed.**

*Note: Non-employer parties who complete this Statement of Position are NOT required to complete items 8f and 8g of the form, or to provide a commerce questionnaire or the lists described in item 7. In RM cases, the employer is NOT required to complete items 3, 5, 6, and 8a-8e of the form.*

**Required Lists:** The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015).

**Consequences of Failure to Supply Information:** Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

FORM NLRB-505  
(4-15)UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
STATEMENT OF POSITION

## DO NOT WRITE IN THIS SPACE

Case No.

28-RC-154081

Date Filed

June 12, 2015

**INSTRUCTIONS:** Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.

**Note:** Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7. In RM cases, the employer is NOT required to respond to items 3, 5, 6, and 8a-8e below.

1a. Full name of party filing Statement of Position

1c. Business Phone:

1e. Fax No.:

1b. Address (Street and number, city, state, and ZIP code)

1d. Cell No.:

1f. e-Mail Address

2. Do you agree that the NLRB has jurisdiction over the Employer in this case? ☐ Yes ☐ No  
(A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)

3. Do you agree that the proposed unit is appropriate? ☐ Yes ☐ No (If not, answer 3a and 3b.)

a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards.)

b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit.

Added

Excluded

4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.

5. Is there a bar to conducting an election in this case? ☐ Yes ☐ No If yes, state the basis for your position.

6. Describe all other issues you intend to raise at the pre-election hearing.

The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at [www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015).

A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B)

If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be excluded from the proposed unit to make it an appropriate unit. (Attachment D)

State your position with respect to the details of any election that may be conducted in this matter. 8a. Type: ☐ Manual ☐ Mail ☐ Mixed Manual/Mail

8b. Date(s)

8c. Time(s)

8d. Location(s)

8e. Eligibility Period (e.g. special eligibility formula)

8f. Last Payroll Period Ending Date

8g. Length of payroll period

☐ Weekly ☐ Biweekly ☐ Other (specify length)

9. Representative who will accept service of all papers for purposes of the representation proceeding

9a. Full name and title of authorized representative

9b. Signature of authorized representative

9c. Date

9d. Address (Street and number, city, state, and ZIP code)

9e. e-Mail Address

9f. Business Phone No.:

9g. Fax No.

9h. Cell No.

WILLFUL FALSE STATEMENTS ON THIS STATEMENT OF POSITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. Code, Title 18, Section 1001)

## PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.



Revised 3/21/2011

## NATIONAL LABOR RELATIONS BOARD

## QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

Bellagio Hotel

CASE NUMBER

28-RC-154081

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION OR LLC

A. STATE OF INCORPORATION  
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed)

7. A. PRINCIPAL LOCATION:

B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. Total:

B. At the address involved in this matter:

9. DURING THE MOST RECENT (Check appropriate box): ☐ CALENDAR YEAR ☐ 12 MONTHS or ☐ FISCAL YEAR (F.Y. dates)

YES

NO

A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.  
\$B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.  
\$

C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$

D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$

E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.  
\$

F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$

G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$

H. Gross Revenues from all sales or performance of services (Check the largest amount):

☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.

1. Did you begin operations within the last 12 months? If yes, specify date: \_\_\_\_\_

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

## PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

## OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

REGION 28

In the Matter of:

Bellagio LLC, d/b/a Bellagio  
Las Vegas,

Case No. 28-RC-154081

Employer,

and

International Union of  
Operating Engineers Local  
501, AFL-CIO,

Petitioner.

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Place: Las Vegas, Nevada

Dates: June 23, 2015

Pages: 1 through 66

Volume: 1

## OFFICIAL REPORTERS

AVTranz  
E-Reporting and E-Transcription  
845 North 3rd Avenue  
Phoenix, AZ 85003  
(602) 263-0885

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 28

In the Matter of:

BELLAGIO, LLC, D/B/A BELLAGIO  
LAS VEGAS

Employer,

and

INTERNATIONAL UNION OF  
OPERATING ENGINEERS LOCAL 501  
AFL-CIO,

Petitioner.

Case No. 28-RC-154081

The above-entitled matter came on for hearing, pursuant to notice, before **NATHAN A. HIGLEY**, Hearing Officer, at the National Labor Relations Board, Region 28, Foley Federal Building, 300 Las Vegas Boulevard South, Las Vegas, Nevada 89101, on **Tuesday, June 23, 2015, at 3:17 p.m.**

**A P P E A R A N C E S****On behalf of the Employer:****PAUL T. TRIMMER, ESQ.****GARY C. MOSS, ESQ.**

JACKSON LEWIS, LLP

3800 Howard Hughes Parkway, Suite 600

Las Vegas, NV 89169

Tel. 702-921-2472

Fax. 702-921-2461

**HILARY B. MUCKLEROY**

MGM RESORTS INTERNATIONAL

840 Grier Drive

Las Vegas, NV 89119

Tel. 702-692-1959

Fax. 702-669-4501

**On behalf of the Petitioner:****JOSE SOTO**

301 Deauville Street

Las Vegas, NV 89106

Tel. 702-622-0846

Fax. 702-386-5813

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Dustin Seibold

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E X H I B I T S

<u>EXHIBIT</u>	<u>IDENTIFIED</u>	<u>IN EVIDENCE</u>
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**Board:**

B-1 (a) through B-1 (g)	6	6
B-2 (a) through B-2 (1)	14	14

**Employer:**

E-1	34	34
E-2	36	38

1                                    P R O C E E D I N G S

2            HEARING OFFICER HIGLEY: The hearing will be in order and  
3 this is a formal hearing in the matter of Bellagio LLC D/B/A  
4 Bellagio Las Vegas, case number 28-RC-154081 before the  
5 National Labor Relations Board. The Hearing Officer appearing  
6 for the National Labor Relations Board is Nathan Higley. All  
7 parties have been informed of the procedures at formal hearings  
8 before the Board by service of a description of procedures in  
9 certification and decertification cases with a notice of  
10 hearing. I have additional copies of this document for  
11 distribution, if any party wants one.

12           Will counsel please state their appearances for the  
13 record, beginning with the Petitioner?

14           MR. MILLION: Kevin Million, Operating Engineer's Local  
15 501 organizer.

16           MR. SOTO: Jose Soto, Director of Organizing, Local 501.

17           HEARING OFFICER HIGLEY: And for the Employer?

18           MR. TRIMMER: Paul Trimmer of Jackson Lewis.

19           MS. MUCKLEROY: Hilary Muckleroy, MGM Resorts  
20 International.

21           HEARING OFFICER HIGLEY: Any additional appearances?

22           MR. TRIMMER: Bellagio is also represented by Susan Moore,  
23 whose official title is --

24           MS. MOORE: H.R. Business Partner.

25           HEARING OFFICER HIGLEY: Could you please state that



1 again, just so it gets on the record?

2 MR. TRIMMER: Sure. Bellagio is also represented by Susan  
3 Moore, who is Bellagio's Human Resources Business Partner.

4 HEARING OFFICER HIGLEY: Thank you. Are there any other  
5 appearances? Let the record show no further response. Are  
6 there any other persons, parties or labor organizations in the  
7 hearing room who claim an interest in this proceeding? Let the  
8 record show no response. I now propose to receive the formal  
9 papers. They have been marked for identification as Board  
10 Exhibit 1(a) through 1(g), 1(g) being index and description of  
11 the formal documents. The exhibit has already been shown to  
12 all parties.

13 Are there any objections to the receipt of these exhibits  
14 into the record?

15 MR. MILLION: No.

16 MR. TRIMMER: No.

17 **(Board Exhibit Number 1(a) through 1(g) Received into Evidence)**

18 HEARING OFFICER HIGLEY: Thank you. With no objections,  
19 the formal papers are received into evidence.

20 Are there any motions to intervene in these proceedings to  
21 be submitted to the Hearing Officer for ruling by the Regional  
22 Director at this time? Hearing no response, are the parties  
23 aware of any other employers or labor organizations that have  
24 an interest in this proceeding?

25 MR. SOTO: No.

1 MR. TRIMMER: No.

2 HEARING OFFICER HIGLEY: Okay. Are there any prehearing  
3 motions that need to be considered at this time?

4 MR. TRIMMER: Hearing Officer, the Employer wishes to  
5 renew its motion to dismiss. Would you like me to do that now?

6 HEARING OFFICER HIGLEY: I think it's sufficient at this  
7 time to call attention to the existence of the motion to  
8 dismiss and we'll discuss them under the submission of evidence  
9 portion of the hearing. Thank you. Any other matters from the  
10 Employer?

11 MR. TRIMMER: We do wish to object to the manner in which  
12 this hearing was scheduled seriatim. This case involves both a  
13 comprehensive and complicated statutory bar under Section  
14 9(b) (3) of the Act, as well as the confidential status of  
15 employees.

16 The Regional Director scheduled four different hearings  
17 seriatim, requiring the attendance of all parties at the same  
18 time, which has interfered with Bellagio's ability to prepare  
19 for this matter. It's violated its due process rights and it's  
20 unduly restricted our ability to investigate the matter.

21 We believe the manner in which it was scheduled is  
22 inappropriate and although we're here to participate, we  
23 reserve the right to reopen the hearing or we would like, if  
24 necessary to submit additional factual matter at a later date.

25 HEARING OFFICER HIGLEY: Understood. Also, for the

1 record, at one point, did the Employer become aware of the  
2 order in which the hearings would be heard?

3 MR. TRIMMER: Pardon me?

4 HEARING OFFICER HIGLEY: When did the Employer become  
5 aware of the order in which the hearings would be heard?

6 MR. TRIMMER: Well, there was no order -- if you mean the  
7 order in terms of which one came first or the order --

8 HEARING OFFICER HIGLEY: The sequence.

9 MR. TRIMMER: -- or the order scheduling the order?

10 HEARING OFFICER HIGLEY: At what point did the Employer  
11 become aware of the sequence in which the hearings would be --  
12 ad seriatim but in which --

13 MR. TRIMMER: Yesterday.

14 HEARING OFFICER HIGLEY: -- they would be heard? Okay.

15 MR. TRIMMER: Which is when we discussed that issue. The  
16 order setting the hearing did not specify which hearing would  
17 go first. It said that all four hearings would start at 10:00  
18 a.m. yesterday.

19 HEARING OFFICER HIGLEY: Okay. Are there any, besides the  
20 motion to dismiss and the objection regarding the decision to  
21 conduct the hearings ad seriatim, are there any other  
22 prehearing objections or -- excuse me, motions or matters  
23 raised by the employer?

24 MR. TRIMMER: Not at this time.

25 HEARING OFFICER HIGLEY: Okay.

1 By the Petitioner, any prehearing motions or matters to be  
2 discussed at this time?

3 MR. TRIMMER: Can we stop for a second?

4 (Counsel confer)

5 MR. TRIMMER: Just to clarify, I think you addressed this.  
6 You wish for us to make our motion to dismiss in a few minutes,  
7 right?

8 HEARING OFFICER HIGLEY: Yes, Sir.

9 MR. TRIMMER: Okay, good. I'm sorry. Thank you. And I  
10 apologize for the interruption.

11 HEARING OFFICER HIGLEY: Not a problem.

12 For the Petitioner?

13 MR. SOTO: We would like to make the motion for the  
14 Employer to recognize us, since this is the reason we're here,  
15 due to section or box 7(a) and 7(b), so we would like for the  
16 Employer to recognize us.

17 HEARING OFFICER HIGLEY: Okay. So the Petitioner is  
18 requesting on the record to be -- for recognition of their  
19 petition filed in this matter. Does the Employer wish to  
20 respond?

21 MR. TRIMMER: The Employer declines.

22 HEARING OFFICER HIGLEY: Okay. Is there anything else,  
23 any prehearing motions or matters that the Petitioner needs to  
24 discuss at this time?

25 MR. SOTO: I have evidence that I would like to submit to

1 the Hearing Officer. At what point do I do that?

2 HEARING OFFICER HIGLEY: When we enter the litigation  
3 phase of the presentation of evidence, you'll be given the  
4 opportunity to present any evidence that's relevant to the  
5 proceeding in a proper manner.

6 MR. SOTO: Okay. Thank you.

7 HEARING OFFICER HIGLEY: And I'll make sure to notify you  
8 when we're there.

9 MR. SOTO: Thank you.

10 HEARING OFFICER HIGLEY: All right. Are there any  
11 stipulations in this matter, any evidentiary stipulations  
12 between the parties?

13 MR. TRIMMER: We would be willing to stipulate that the  
14 surveillance techs do not carry weapons.

15 HEARING OFFICER HIGLEY: Okay. Well maybe we can get into  
16 that during the evidence. I'm going to go through some of the  
17 preliminary matters such as jurisdiction, labor organization  
18 status, history of collective bargaining and hopefully we can  
19 dispose of those in a summary manner.

20 Will the Employer please state its full and correct name  
21 for the record?

22 MR. TRIMMER: Bellagio, LLC.

23 HEARING OFFICER HIGLEY: Can it be stipulated that the  
24 Employer is engaged in commerce within the meaning of the  
25 National Labor Relations Act and is subject to the jurisdiction



1 of the National Labor Relations Board.

2 MR. TRIMMER: Yes.

3 HEARING OFFICER HIGLEY: Is the Employer willing to  
4 stipulate that it does have -- I'm not going to go any further  
5 with facts regarding the jurisdiction over the Employer.

6 Does the Petitioner also stipulate that the Employer is  
7 subject to the jurisdiction of the National Labor Relations  
8 Board under its commerce?

9 MR. SOTO: Yes.

10 HEARING OFFICER HIGLEY: Okay. Thank you. The  
11 stipulation is received. Is the International Operating  
12 Engineers Local 501 AFL-CIO the correct and complete name of  
13 the Petitioner?

14 MR. MILLION: Yes.

15 HEARING OFFICER HIGLEY: And that is as it appears in the  
16 Petitioner's petition in this case?

17 MR. MILLION: Yes.

18 HEARING OFFICER HIGLEY: All right. Can it be stipulated  
19 that the Petitioner is a labor organization --

20 MR. MILLION: Yes.

21 HEARING OFFICER HIGLEY: -- within the meaning of the  
22 National Labor Relations Act?

23 MR. MILLION: Yes.

24 MR. TRIMMER: Yes.

25 HEARING OFFICER HIGLEY: Thank you. Stipulation is

1 received.

2 Is there a history of collective bargaining between the  
3 Employer and the Petitioner with regard to this unit?

4 MR. TRIMMER: No.

5 MR. SOTO: No.

6 HEARING OFFICER HIGLEY: Can it be stipulated that there  
7 is no contract or other bar in existence that would preclude  
8 the processing in this petition?

9 MR. TRIMMER: Yes.

10 MR. SOTO: Yes.

11 HEARING OFFICER HIGLEY: Stipulation is received. Can it  
12 be stipulated that a bargaining unit that includes all full  
13 time and part time surveillance techs at the Employer's  
14 facility and excludes all other employees, including office,  
15 clerical, professional, guards and supervisors as defined in  
16 the Act is appropriate for the purposes of collective  
17 bargaining?

18 MR. TRIMMER: No.

19 HEARING OFFICER HIGLEY: Okay. Petitioner, are you aware  
20 of any other petitions pending in other regional offices  
21 involving other facilities of the same Employer?

22 MR. SOTO: No.

23 HEARING OFFICER HIGLEY: Okay. Employer, are you aware of  
24 any?

25 MR. TRIMMER: No.

1 HEARING OFFICER HIGLEY: The parties are reminded that  
2 prior to the close of hearing, the Hearing Officer will solicit  
3 the parties' positions on the type, date, time and location of  
4 the election, and the eligibility period, including the most  
5 recent payroll ending date and any applicable eligibility  
6 formulas, but will not permit litigation of those issues. The  
7 hearing officer will also inquire as to the need for foreign  
8 language ballots and notices of election. Please have that  
9 relevant information available at that time.

10 The parties have been advised that the hearing will  
11 continue from day to day as necessary until completed unless  
12 the Regional Director concludes that extraordinary  
13 circumstances warrant otherwise. The parties are also advised  
14 that upon request, they shall be entitled to a reasonable  
15 period at the close of hearing for oral argument. Post hearing  
16 brief shall only be filed upon special permission of the  
17 Regional Director. In addition, a party may offer into  
18 evidence a brief memo of points and authorities, case citations  
19 or other legal arguments during the course of the hearing or  
20 before the hearing closes.

21 The Employer has completed and I have marked for  
22 identification as Board Exhibit 2(a) through 2(j) a statement  
23 of position in this matter. Are there any objections to the  
24 receipt of this exhibit into the record?

25 MR. SOTO: No.

1 HEARING OFFICER HIGLEY: With no objections, the exhibit  
2 is received.

3 **(Employer Exhibit Number 2(a) through 2(j) Received into**  
4 **Evidence)**

5 HEARING OFFICER HIGLEY: Is it correct that this is the  
6 only position statement that has been filed in this matter?

7 MR. TRIMMER: I believe so. We were not served with one.

8 HEARING OFFICER HIGLEY: Petitioner, have you filed a  
9 position statement in this matter?

10 MR. SOTO: No, but can we file a position statement down  
11 the line?

12 HEARING OFFICER HIGLEY: There is a set time for which  
13 position statements are due. I refer you to the rules --

14 MR. SOTO: Okay.

15 HEARING OFFICER HIGLEY: -- governing that. You can take  
16 any action you deem necessary if you wish to. I'm going to go  
17 through the position statement just to summarize the issues to  
18 be discussed. I'd like to get both parties' positions as to  
19 the issues raised in the position statement.

20 Please correct me as I go along, if necessary.

21 The first issue that I note in the position statement is  
22 raised under paragraph C in which in summary the Employer  
23 argues that the unit petitioned for is inappropriate. Am I  
24 correct or does there need to be any supplemental information  
25 to make that a complete statement?

1 MR. TRIMMER: The arguments in Section C?

2 HEARING OFFICER HIGLEY: Yes. I was summarizing the  
3 argument in Section C is that the unit is not appropriate.

4 MR. TRIMMER: Yes, for the two reasons set forth in our  
5 statement of position.

6 HEARING OFFICER HIGLEY: And is there any agreement on the  
7 part of the Petitioner? Do you contend that issue?

8 MR. SOTO: No.

9 HEARING OFFICER HIGLEY: Sorry, I asked a -- sorry, a  
10 compound question. Is the Petitioner in agreement with the  
11 Employer's position?

12 MR. SOTO: No.

13 HEARING OFFICER HIGLEY: Okay. That remains an  
14 outstanding point of contention.

15 The next issue that I see is under the Employer's position  
16 statement paragraph F, in which the Employer argues that the  
17 petition itself is invalid for argument elaborated in its  
18 position statement. Is there anything lacking in my summary  
19 description?

20 MR. TRIMMER: Only in the sense that the argument that is  
21 identified in Section F of the statement position is elaborated  
22 in our June 16th motion to dismiss.

23 HEARING OFFICER HIGLEY: Okay. And yes, that paragraph  
24 does reference the motion to dismiss filed on June 16th with  
25 the National Labor Relations Board.



1 Does the Petitioner wish to contend that issue or litigate  
2 that issue during this proceeding?

3 MR. SOTO: Yes.

4 HEARING OFFICER HIGLEY: Okay. According to my reading of  
5 the petition, there are no other substantive issues to be  
6 raised during the litigation of this matter. Is that correct,  
7 or is there anything that should be brought to my awareness at  
8 this time?

9 MR. TRIMMER: What do you mean by substantive?

10 MR. SOTO: Yes.

11 HEARING OFFICER HIGLEY: I'm looking at the position  
12 statement. I'm seeing a number of responses that the  
13 Employer's filed in accordance with the Board's rules and  
14 regulations. The only two areas where I see that there are  
15 points that will require litigation during this hearing are the  
16 ones I just cited in paragraphs C and F. Is there anything  
17 that I'm missing or that should be brought to my attention?

18 MR. SOTO: Yes, Hearing Officer. There is an individual  
19 that was left out of the bargaining unit.

20 HEARING OFFICER HIGLEY: Okay. Does the Petitioner then  
21 wish to make some argument as to the appropriateness of the  
22 voter list provided as part of the Employer's position  
23 statement?

24 MR. SOTO: In Exhibit B provided by the Employer, they  
25 left out an individual out of the bargaining unit. Our

1 petition filed clearly states four individuals, they only have  
2 three listed.

3 HEARING OFFICER HIGLEY: Okay. Let's see, so this is a  
4 matter regarding the completeness of the, at this time,  
5 proposed voter list. I'll note that the Petitioner is  
6 permitted to amend their petition any time before the Hearing  
7 Officer's decision directing election or stipulations received,  
8 however, depending on what the basis for the individual in  
9 question's exclusion is, that may become a matter of  
10 eligibility, which is typically litigated after any election  
11 that may occur. With those three issues now raised --

12 MR. TRIMMER: I'd like to respond to that issue, only  
13 because it was phrased as -- it was framed as an issue  
14 involving the adequacy or the completeness of the list that we  
15 submitted in our statement of position.

16 The petition that was filed by the Union is very clear  
17 that it applies only to surveillance techs. The Petitioner's  
18 reference to the numbers of individuals supposedly in the unit  
19 is irrelevant. That's an issue -- the number is used to  
20 evaluate whether the petitioner has satisfied the showing of  
21 interest requirement under board policy.

22 That's not even a requirement of the regulations, frankly.  
23 And in that regard, we have provided a list that sets forth all  
24 of the surveillance techs. If the number said 50, it wouldn't  
25 make any difference. The petition for a unit is what it is.

1 HEARING OFFICER HIGLEY: Okay.

2 MR. TRIMMER: And, you know, we would object to any  
3 modification of that at this time. They've had plenty of time  
4 to withdraw the petition or amend the petition. They haven't  
5 done it and it would be inappropriate to allow them to do so.

6 HEARING OFFICER HIGLEY: Okay. I understand your  
7 argument. At this time, what I'd like to do is identify the  
8 issues to be litigated and at a later time, I'd like to hear  
9 any argument that does relate to the issues. Right now for my  
10 purpose of identifying those issues, I now see three issues  
11 that we will take up later during the proceeding; that being  
12 the issue identified in paragraph C of the Employer's position  
13 statement, the issue identified in paragraph F of the  
14 Employer's position statement and the issue raised by  
15 Petitioner orally having to do with the appropriateness of the  
16 voter list provided in Exhibit B of the Employer's position  
17 statement.

18 Are there any other issues that will be discussed during  
19 this proceeding?

20 MR. SOTO: No.

21 HEARING OFFICER HIGLEY: Okay. I Understand the  
22 Employer's position with regard to the issue raised by the  
23 Petitioner, so we can move on. I don't believe there are any  
24 stipulations to be entered regarding those positions.

25 Typically the issues raised during hearing, the burden of

1 proof falls on the party that has made an objection or the  
2 party seeking to rebut the presumption, so for those issues,  
3 the party seeking to rebut a presumption is responsible for  
4 presenting evidence to support that position and in general,  
5 legal conclusions are not sufficient to rebut that presumption.  
6 The party must present witnesses or evidence to support its  
7 contentions.

8 For any matters involving statutory exclusions such as  
9 supervisor status, the party seeking to exclude those employees  
10 on these bases bears the burden of proof and likewise you must  
11 present specific detailed evidence in support of your position  
12 and general conclusionary statements by witnesses will not be  
13 sufficient.

14 In other words, any argument or any contentions that are  
15 sought to be supported during this hearing must be supported by  
16 evidence. A closing argument won't be sufficient. There must  
17 be documentary or testimony evidence to support those  
18 positions.

19 Is there anything further before we enter the presentation  
20 of the evidence in this matter?

21 MR. TRIMMER: Only, I'd like to clarify do you wish for me  
22 to articulate our argument regarding the motion to dismiss in  
23 the presentation of evidence section?

24 HEARING OFFICER HIGLEY: Yes, Sir. In fact, if you would  
25 like, we can start with that, because I don't believe it will

1 involve any witnesses.

2 MR. TRIMMER: That is correct.

3 HEARING OFFICER HIGLEY: Okay. Is there anything further  
4 before we move on to the presentation of evidence?

5 MR. SOTO: I would like to present job books. I'm sorry,  
6 what was the question?

7 HEARING OFFICER HIGLEY: Is there anything we need to  
8 address before we enter the phase of this hearing in which  
9 evidence is presented, any preliminary?

10 MR. SOTO: No.

11 HEARING OFFICER HIGLEY: Okay. We're going to move on  
12 then to the presentation of evidence. I think it's appropriate  
13 to begin with the Employer's argument regarding a motion to  
14 dismiss because there are no expected witnesses or documentary  
15 evidence involved, so I'll let the employer begin.

16 MR. TRIMMER: The Employer previously filed a motion to  
17 dismiss the petition on June 16th, 2015. The basis for that  
18 motion was set forth in that document, but the summary of our  
19 argument is that we moved to dismiss the petition because the  
20 petition was inadequate. It failed to comply with Section  
21 102.61(a) of the Board's rules and regulations; 102.61(a)  
22 requires the Petitioner to set forth in its petition a  
23 statement that the Employer declines to recognize the  
24 Petitioner as the representative within the meaning of Section  
25 9(a) of the Act.



1           If you looked at the petition, which is already in the  
2     record, boxes 7(a) and 7(b) were left blank. It's our view  
3     that the petition therefore does not comply with Section  
4     102.61(a). And it's important to understand that Section  
5     102.61(a), which was recently amended by the Board, contains a  
6     commandment. It commands the Petitioner that the Petition  
7     shall contain the following items, and then Section 8 of that  
8     regulation refers to a statement that the Employer declines to  
9     recognize the Union.

10           Box 7 of the petition form is the box that is intended to  
11     contain that information. The Petitioner left it blank. In  
12     our motion, and we incorporate that motion here, and it's in  
13     the record as one of the formal papers, we cite Supreme Court  
14     authority that explains that when regulations or the law uses  
15     the same word several times in the same way, that it means the  
16     same thing. Here, the revised rules and regulations repeatedly  
17     use the word shall and it should mean the same thing for the  
18     Union's completion of the petition that it means for other  
19     sections of the regulations, such as the obligation of the  
20     Employer to submit a position statement, the obligation of the  
21     Employer to submit a voter list later on in the proceedings  
22     later on if the Regional Director were to order an election.

23           There's no way to differentiate between the word shall in  
24     102.61(a)(8) and the word shall in other sections of the  
25     regulations. For that reason, we believe that the petition is

1 invalid and it should be dismissed. It patently fails to  
2 comply with the Board's rules and regulations and there's  
3 nothing in the regulations that gives the Regional Director or  
4 the Board the discretion to ignore that mandatory obligation.

5 HEARING OFFICER HIGLEY: Anything further?

6 MR. TRIMMER: With respect to the motion to dismiss?

7 HEARING OFFICER HIGLEY: With respect to the argument  
8 regarding the validity of the petition?

9 MR. TRIMMER: Not at this time.

10 HEARING OFFICER HIGLEY: Okay. Any response from the  
11 Petitioner, limited to the issue of the Employer's argument  
12 that the petition is invalid?

13 MR. SOTO: Yes. The Employer was notified. The Employer  
14 remained silent and that's why box 7(a) and (b) were left  
15 blank.

16 HEARING OFFICER HIGLEY: Okay.

17 MR. TRIMMER: I would like to respond to that.

18 HEARING OFFICER HIGLEY: Okay.

19 MR. TRIMMER: If the Petitioner's done.

20 HEARING OFFICER HIGLEY: Let me -- let me make one  
21 statement. The issue being raised by the employer is not the  
22 action behind that went into the Petitioner's thought process  
23 or intentions in forming the petition, rather just the petition  
24 itself. Is there any argument by the petitioner regarding the  
25 validity of the document, not the process underlying it, but

1 the document itself?

2 MR. SOTO: The document itself, no.

3 HEARING OFFICER HIGLEY: Okay. But you're -- I didn't  
4 mean to cut you off, was there anything further you wanted to  
5 say?

6 MR. SOTO: Yes. The Employer was notified. We did ask  
7 for recognition. The Employer failed to call us back so the  
8 boxes were left blank.

9 HEARING OFFICER HIGLEY: Okay. And I believe the Employer  
10 had a response.

11 MR. TRIMMER: My first response is that the assertions  
12 from the Petitioner, if they're to be treated as facts, then he  
13 should state them under oath. It's not sworn. This is just  
14 argument from what amounts to counsel for the Union.

15 HEARING OFFICER HIGLEY: Thank you.

16 MR. TRIMMER: The second thing I'd like to add is that the  
17 petition specifically provides the Union with the option to  
18 state that the Employer failed to reply to a demand for  
19 recognition. The petition is signed by Mr. Soto and he signed  
20 it under penalty of perjury under Federal law. What he's  
21 saying now is not consistent with what was contained within the  
22 petition.

23 HEARING OFFICER HIGLEY: Okay. Mr. Trimmer's correct.  
24 The factual assertions you've made should be made as part of  
25 the record by witness and/or by documentary evidence.

1 Understanding the argument that the Employer is making is that  
2 the petition itself is invalid, the process up to this point  
3 going into the petition is not in question, except as regard to  
4 the factual assertion you just made regarding what was behind  
5 the petitioner's intentions or thoughts in filling out the  
6 petition. The Petitioner is welcome to present whatever  
7 evidence it deems relevant.

8 I'm only pointing out that the Employer's argument in its  
9 motion to dismiss and during its statement a few moments ago,  
10 prior to the petitioner's own statement, was simply that the  
11 document itself, the petition itself, was not valid, not that  
12 the Petitioner's actions did not comply with the Board's rules  
13 and regulations.

14 With that in mind, I'll leave it up to the Petitioner to  
15 take what actions it deems appropriate. Do you wish to put  
16 anything on the record?

17 MR. SOTO: Yeah, I would like to put on the record that I  
18 had conversations --

19 HEARING OFFICER HIGLEY: Okay. And I'm going to interrupt  
20 you there, because --

21 MR. SOTO: Okay.

22 HEARING OFFICER HIGLEY: -- this is the matter -- these  
23 kind of factual assertions should be made under oath --

24 MR. SOTO: Okay.

25 HEARING OFFICER HIGLEY: -- and you will be subject to

1 cross-examination and that's the appropriate to put in factual  
2 testimony and any documentary evidence.

3 MR. SOTO: Okay.

4 HEARING OFFICER HIGLEY: I'm going to point out again --  
5 let's go off the record.

6 (Off the record at 3:48 p.m.)

7 HEARING OFFICER HIGLEY: Thank you. Before we went off  
8 the record there was some brief discussion of the actions that  
9 were underlying the Petitioner's completion of its petition in  
10 this case.

11 Off the record, there was some discussion as to the legal  
12 issues that are to be litigated during the proceeding, and I'll  
13 ask the Petitioner, is there any further argument or testimony  
14 you wish to present regarding this?

15 MR. SOTO: No.

16 HEARING OFFICER HIGLEY: Okay. I'll remind you, it's your  
17 right to present the evidence you see fit or necessary to  
18 support your arguments and you may at any time do so. That  
19 said, does the Employer have any further argument or evidence  
20 to offer regarding the validity or alleged invalidity of the  
21 petition?

22 MR. TRIMMER: No.

23 HEARING OFFICER HIGLEY: Thank you. Let's move on to the  
24 second issue, which is the appropriateness of the unit.  
25 Employer, do you want to call your first witness?



1 MR. TRIMMER: Well, before we get into that, I would like  
2 to know how the Petitioner's contention that there should be an  
3 additional member of the unit or the list that we submitted is  
4 inadequate is being treated, because if we're required to  
5 present evidence to rebut any particular presumption to  
6 establish any particular fact, I want to know what those issues  
7 are, and it would seem to me that if the Petitioner thinks  
8 someone else should be included, they should proceed on that  
9 issue first.

10 HEARING OFFICER HIGLEY: I think it's appropriate for the  
11 Employer, both parties, frankly, to have notice of what they're  
12 going to be asked to litigate before they're asked to do so, so  
13 let's go off the record and I'm going to consult the Regional  
14 Director.

15 (Off the record at 4:06 p.m.)

16 HEARING OFFICER HIGLEY: Okay. Before we went off the  
17 record, there was some discussion regarding -- with a concern  
18 of developing the record and preparation by the parties to  
19 present evidence. And that was with regard to a fourth member  
20 of the bargaining unit or an individual who Petitioner seeks to  
21 include in the bargaining unit. Can I get the Petitioner's  
22 position regarding this issue?

23 MR. SOTO: Yes. When the petition was filed, we filed for  
24 all full time and part time surveillance techs and actually put  
25 the numerical number of four. And we feel that the individual

1 that was left out is not a supervisor. He cannot hire, fire or  
2 even suggest discipline under the Act. And that's why we feel  
3 that he should be added to the excelsior list or the Employer  
4 list.

5 HEARING OFFICER HIGLEY: Okay. Response or the position  
6 of the Employer?

7 MR. TRIMMER: Section 102.61(a)(4) of the Board's rules  
8 and regulations require the Petitioner to set forth the  
9 description of the bargaining unit. It says the petition shall  
10 contain that description. The description in the petition is  
11 full time and part time surveillance techs. It doesn't say  
12 leads. That's a separate job classification, separate title.  
13 So we don't believe that the petition contains it.

14 And to the -- we don't believe that anyone has the  
15 authority to include a lead in the petition for a unit without  
16 violating the rules and regulations of the Board. The second  
17 thing we would say is that the individual that Petitioner  
18 alleges is in this unit is a supervisor under the Act. We had  
19 no notice that the individual would be included in this unit or  
20 that the Petitioner believed it.

21 We filed our statement of position leaving that person out  
22 on Friday. There'd been no discussion of it until now. The  
23 Petitioner didn't file its own statement of position. And from  
24 our perspective, assuming all of our arguments were rejected  
25 and he were to be included, because he constitutes more than 25

1 percent of the bargaining unit at the Employer's facility, we  
2 believe that under the General Counsel's memo and under  
3 guidance he's given, that that would be an issue we're entitled  
4 to litigate.

5 HEARING OFFICER HIGLEY: Okay. I'm going to state for the  
6 record that the Petitioner's petition has in box 6A number of  
7 employees in the unit as four. The proposed description of the  
8 bargaining unit is all full time and part time surveillance  
9 techs at the Employer's facility, et cetera. And the list --  
10 the voter list provided, which is Exhibit B in Employer's  
11 position statement includes three individuals. Our discussion  
12 concerns a -- alluded to a fourth individual. Does the  
13 Petitioner have a response to the Employer's position?

14 MR. SOTO: Our position remains the same. We filed for  
15 all full time and part time surveillance techs. This  
16 individual is a surveillance tech. He cannot hire, fire or  
17 recommend discipline under the Act.

18 HEARING OFFICER HIGLEY: Okay. The Regional Director has  
19 determined that the question of this fourth individual's  
20 status, whether or not he or she is a supervisor, is a question  
21 of eligibility. And despite the fact that this individual does  
22 represent 25 percent of the petition for a bargaining unit,  
23 that it is appropriate, because the numbers are so small, to  
24 proceed forward with a directed election, in the event that  
25 there is a directed election.

1 And to allow this matter to be litigated post-election.

2 And that is the Regional Director's ruling. Without -- if  
3 there's nothing further, we'll move on to the next issue.

4 MR. TRIMMER: I would like to add one more thing. It was  
5 -- that issue wasn't included in our statement of position.  
6 Because of the way that the petition was phrased, we believe  
7 that raising that issue now and preventing us from presenting  
8 evidence about it violates our due process rights and is  
9 inconsistent with the rules and regulations.

10 HEARING OFFICER HIGLEY: Okay. Well that -- there has  
11 been some discussion, but that issue will not be litigated. So  
12 neither party will be expected to present evidence to support  
13 or defend that position -- support or contend that position.  
14 It -- if that wasn't already clear, I'll state that for the  
15 record that that will not be discussed except in post-election  
16 proceedings, if any. Anything -- does the Petitioner wish to  
17 make any additional statements?

18 MR. SOTO: No.

19 HEARING OFFICER HIGLEY: Okay. With that, let's proceed  
20 to the next issue of the contention over the appropriateness of  
21 the unit. We'll begin with the Employer. Would you like to  
22 call your first witness?

23 MR. TRIMMER: Yes. The Employer calls Dustin Seibold.

24 HEARING OFFICER HIGLEY: Okay, sir, will you please raise  
25 your right hand?

1 Whereupon,

2

**DUSTIN SEIBOLD**

3 having been duly sworn, was called as a witness herein and was  
4 examined and testified as follows:

5 HEARING OFFICER HIGLEY: Just take a seat. Will you state  
6 and spell your name for the record?

7 THE WITNESS: Dustin Seibold. D-U-S-T-I-N S-E-I-B-O-L-D.

8 HEARING OFFICER HIGLEY: Thank you. Employer, you may  
9 proceed with your questions.

10

**DIRECT EXAMINATION**

11 Q BY MR. TRIMMER: Mr. Seibold, what's your current  
12 position?

13 A Director of surveillance at Bellagio.

14 Q How long have you held that job?

15 A Just about five months.

16 Q To whom do you report?

17 A The president.

18 Q And what is your primary responsibility as the director of  
19 surveillance?

20 A Surveillance is tasked with protecting the assets of the  
21 company, to include the property, safety of employees and  
22 guests and protect the legitimacy of gaming.

23 Q Is this the first surveillance position that you've held?

24 A It's not.

25 Q What position did you hold before becoming the director of

1 surveillance at Bellagio?

2 A I was a shift supervisor at Aria.

3 Q In the surveillance department?

4 A Yes.

5 Q And how long did you hold that job?

6 A For a little over five years.

7 Q And before that?

8 A Operator -- surveillance operator at Mirage.

9 Q And how long did you hold that job?

10 A Little over one year.

11 Q And is that all of your surveillance experience?

12 A No. Before that, I was shift supervisor at Monte Carlo in  
13 surveillance for four years. And a couple of years at the Lady  
14 Luck Casino.

15 Q In surveillance?

16 A In surveillance.

17 Q And what was your position at the Lady Luck?

18 A Operator.

19 Q So all told, how many years of experience do you have in  
20 surveillance?

21 A About 12.

22 Q Okay. I'm going to show you a document that'll be marked  
23 as Employer's Exhibit 1. And I apologize in advance. Because  
24 of the manner in which this hearing was scheduled, I made a  
25 sufficient number of copies for one hearing. This is the same



1 document that was introduced at Employer's Exhibit 1 in the  
2 earlier case. And I will bring additional copies tomorrow to  
3 supplement the record.

4 HEARING OFFICER HIGLEY: Okay. Since it is identical. I  
5 have that exhibit from the prior --

6 MR. TRIMMER: Thank you.

7 HEARING OFFICER HIGLEY: -- hearing and I do not need a  
8 copy. The Petitioner has a right to see it and the Court  
9 Reporter does need a copy.

10 MR. TRIMMER: Yeah. Did you say the Court Reporter  
11 doesn't need a copy?

12 HEARING OFFICER HIGLEY: Does need a copy.

13 MR. TRIMMER: Oh, okay. I thought oh geez. Okay.

14 MR. SOTO: And Hearing Officer, we have a copy, so we're  
15 okay.

16 HEARING OFFICER HIGLEY: Okay. Would you like to inspect  
17 the document he's using to --

18 MR. SOTO: Briefly.

19 HEARING OFFICER HIGLEY: -- insure that it's the same.

20 MR. TRIMMER: Sure.

21 MR. SOTO: If you don't mind. Yeah. Looks good.

22 MR. TRIMMER: Thanks.

23 Q BY MR. TRIMMER: Mr. Seibold, do you -- you mentioned that  
24 the surveillance department and that you specifically have  
25 responsibility for insuring that the company complies with

1 gaming control regulations. Does the gaming control board have  
2 regulations that govern surveillance activity independently?

3 A It does.

4 Q And do those regulations also apply to the equipment  
5 that's used to monitor gaming activity?

6 A Yes, it does.

7 Q Okay. Can you generally describe what the regulations  
8 require for the surveillance department?

9 A Sure. It -- as far as equipment goes, the gaming control  
10 board lays the fact that surveillance monitor room and  
11 equipment room not be accessible to the general public. The  
12 types of coverage required and the length of retention of that  
13 coverage.

14 Q And in the document in front of you marked as Employer's  
15 Exhibit 1, are those the regulations that apply to the  
16 surveillance department?

17 A They are.

18 Q Okay.

19 MR. TRIMMER: I ask that Employer's 1 be admitted.

20 HEARING OFFICER HIGLEY: Has the Petitioner had an  
21 opportunity to thoroughly inspect the proposed exhibit?

22 MR. SOTO: Yes.

23 HEARING OFFICER HIGLEY: Is there any objection?

24 MR. SOTO: No.

25 HEARING OFFICER HIGLEY: Okay. Then Employer's Exhibit 1

1 is received.

2 **(Employer Exhibit Number 1 Received into Evidence)**

3 Q BY MR. TRIMMER: And you mentioned that there are specific  
4 kinds of coverage required for different kinds of games. Do  
5 the regulations speak to that?

6 A Yes, they do.

7 Q And can you give me an example?

8 A For example, slot machines that offer a certain level of  
9 payout require coverage, whereas others don't.

10 Q So Mega Bucks?

11 A Mega Bucks is a linked progressive, so any payout of three  
12 million or more on a linked progressive requires coverage.

13 Q And what kind of coverage is required for the Mega Bucks  
14 machine?

15 A Sufficient to read the meter, the pay lines and observe  
16 the actions of patrons and employees in the area.

17 Q And what's the meter?

18 A The meter is the progressive meters and the big display --  
19 number that goes up as people play.

20 Q Oh --

21 A The jackpot --

22 Q -- the jackpot --

23 A -- basically.

24 Q -- number?

25 A Correct.

1 Q Okay. And you said that there needs to be sufficient  
2 camera coverage to observe what the patron is doing. What do  
3 you mean by that?

4 A I mean if we -- if Mega Bucks were to hit or any  
5 significant jackpot, we would do a review --

6 MR. SOTO: Can I object?

7 HEARING OFFICER HIGLEY: You may.

8 MR. SOTO: It -- aren't -- isn't Mega Bucks a  
9 proprietarized machine to IGT?

10 HEARING OFFICER HIGLEY: Okay. Well the -- what you've  
11 just raised is a question that would be appropriate for cross-  
12 examination.

13 MR. SOTO: Okay.

14 HEARING OFFICER HIGLEY: If at any point, you have an  
15 objection to the question that Employer's counsel is asking,  
16 because it's improper, you're legally to object.

17 MR. SOTO: Okay.

18 HEARING OFFICER HIGLEY: But any questions that you have  
19 that would relate to the Employer's questioning should be asked  
20 all at once at the time you're permitted to cross-examine the  
21 witness.

22 MR. SOTO: I'm sorry to --

23 HEARING OFFICER HIGLEY: Not a problem. I believe Mr.  
24 Trimmer had just asked a question. I don't believe the witness  
25 gave a response. Would you like to restate it or --

1 THE WITNESS: Could you repeat, please?

2 Q BY MR. TRIMMER: I asked something to the effect of why  
3 did you -- why did the surveillance department need to have  
4 coverage of the patron's activities?

5 A Oh. So if a significant jackpot were hit, we would  
6 conduct a review and we would want to see if the machine was  
7 tampered with in any way by the patron playing.

8 Q How would a patron tamper with a gaming machine like that?

9 A Modern machines are much less susceptible, but there are  
10 any number of electronic devices that can be inserted into bill  
11 validators to trip the mechanism. Same with older machines.  
12 The coin slot can be manipulated.

13 Q And who's respon -- what employees in your department are  
14 responsible for insuring that you have adequate coverage of the  
15 different gaming machines?

16 A The surveillance techs.

17 Q Okay. I'm going to show you a document that will be  
18 marked as Employer's Exhibit 2.

19 **(Employer's Exhibit Number 2 Marked For Identification)**

20 Q BY MR. TRIMMER: And I'm going to give it to you with the  
21 same qualification that I made about Employer's Exhibit 1.

22 MR. SOTO: Absolutely. I got it right here.

23 HEARING OFFICER HIGLEY: Do you want to take a moment to  
24 inspect it?

25 MR. SOTO: Yeah. Thanks.

1 HEARING OFFICER HIGLEY: Okay. I understand the  
2 limitation. Again, the Court reporter will need a copy, but I  
3 do have the one from the prior proceeding.

4 Q BY MR. TRIMMER: And does the gaming control board have  
5 regulations that govern -- maintenance obligations and repair  
6 obligations for gaming licensing?

7 A Yes, they do.

8 Q Or for surveillance cameras, I mean.

9 A Yes.

10 Q Okay. And the document I just presented to you,  
11 Employer's Exhibit 2, does that summarize some of those  
12 obligations?

13 A It does.

14 Q Okay. And with respect to -- well, can you generally  
15 describe what are the compliance requirements for surveillance  
16 of gaming devices?

17 A So -- I'm sorry, of gaming --

18 Q That was a bad question. What are the -- your  
19 department's obligations for maintaining and repairing  
20 surveillance cameras under the gaming control board  
21 regulations?

22 A So any coverage that is required by gaming regulations  
23 must be -- any malfunction must be logged in a maintenance log  
24 that we maintain. And effort must be made to repair that  
25 malfunction within 72 hours.



1 Q Who makes that log of the malfunction?

2 A Whoever notices the malfunction. Mostly monitor room  
3 personnel.

4 Q And who logs when the repair has been made?

5 A Surveillance techs.

6 Q And what were -- what would happen if your surveillance  
7 camera operation, for example, wasn't repaired within the time  
8 period required by the gaming control regulations?

9 A If it's not repaired within seven days, we're considered  
10 out of compliance and that could lead to any number of negative  
11 reactions by the gaming control board, fines or jeopardize our  
12 license.

13 Q Thank you.

14 MR. TRIMMER: I ask that Employer's 2 be admitted.

15 HEARING OFFICER HIGLEY: Has the Petitioner had a fair opp  
16 -- an opportunity to thoroughly inspect Employer's Exhibit 2?

17 MR. SOTO: Yes.

18 HEARING OFFICER HIGLEY: Any objection to its admission?

19 MR. SOTO: No.

20 HEARING OFFICER HIGLEY: Okay. Employer's Exhibit 2 is  
21 received.

22 **(Employer Exhibit Number 2 Received into Evidence)**

23 Q BY MR. SOTO: You mentioned that your primary obligation  
24 is to secure the floor, protect the Employer's property, insure  
25 that things are safe and in compliance with the law. How do

1 you do that? What sort of devices do you use?

2 A We use a closed circuit television system to monitor all  
3 areas of the gaming floor or any area where gaming funds are  
4 counted or stored.

5 Q Do you have any employees that physically walk the floor  
6 to conduct surveillance?

7 A I do not.

8 Q So you rely completely on the CCTV system?

9 A Yes.

10 Q How many employees are in your department?

11 A Twenty.

12 Q And how many classifications?

13 A We have five classifications, not counting myself.

14 Q Okay. What's the first? Or what's the most se -- who's  
15 the person that reports directly to you? You know, the most  
16 senior classification?

17 A Surveillance supervisor.

18 Q And how many surveillance supervisors do you have?

19 A Three.

20 Q Are -- how many surveillance supervisors are assigned to  
21 any particular shift?

22 A One.

23 Q So one per shift?

24 A One per shift.

25 Q And what is a surveillance supervisor responsible for?

1 A They're responsible for overseeing the complete operation  
2 of their shift from making sure the operators are conducting  
3 observations correctly to insuring the incident files are  
4 completely correctly and thoroughly.

5 Q Where to the surveillance supervisors work?

6 A In the surveillance monitor room.

7 Q Where is the surveillance monitor room located at  
8 Bellagio?

9 A It's located on the mezzanine level.

10 Q And how big is it?

11 A It's -- the monitor room itself I would say is  
12 approximately 12 by 24 feet. And then we have some other like  
13 office area, a viewing room and like a training room and break  
14 room off of that.

15 Q Okay.

16 A But the monitor room itself, I'd say about 12 by 24  
17 approximately.

18 Q And when you walk into the door, how many employees are --  
19 what does the room look like once you walk into the door?

20 A You see one supervisor station in the back of the room  
21 with four monitors in front of it, one computer monitor for the  
22 network system. One working monitor. And two computer  
23 monitors that show the digital surveillance system. And along  
24 the front wall, there's an array of 26 large monitors. Some of  
25 them are split up into smaller working monitors. And then in

1 front of that on each operator's station, there's three more  
2 computer monitors, same setup. Digital network.

3 Q How many operator stations are in the monitor room?

4 A We have four and a half. We have four full stations and  
5 then one auxiliary.

6 Q So we've been using the term operator. How many operators  
7 do you have on duty? Or how many operators are in your  
8 department?

9 A We have a total of nine operators.

10 Q And how many operators are scheduled for any specific  
11 shift?

12 A Two to four.

13 Q And what is an operator's responsibility?

14 A They're basically the frontline employee. Monitor the  
15 casino via the closed circuit television system for any  
16 suspicious activity. They'll receive phone calls from various  
17 departments in the casino, which allows us to focus our  
18 observations on say, high actions suspicious activity that  
19 another department might notice. And they're responsible for  
20 that. And then documenting their observations.

21 Q What are the documents that they record used for?

22 A Minor incidents would trigger a daily log entry. It just  
23 basically states we got this phone call or we provided coverage  
24 for this incident. More serious things, like policy  
25 violations, we might observe or coverage for an event that may

1 result in future litigation or prosecution will trigger an  
2 incident file.

3 Q What other classifications do you have in your department?

4 A We have a lead operator, which is basically between those  
5 two classifications there. An operator when the surveillance  
6 is there or when the supervisor's there. In his absence -- in  
7 his or her absence, they fill in as the supervisor.

8 Q And any other classifications?

9 A We have surveillance techs and one lead tech.

10 Q Okay. And what are the surveillance techs -- what are  
11 their primary responsibilities?

12 A They're responsible for designing, installing and  
13 maintaining our entire closed circuit TV system.

14 Q How many cameras do you have in your CCTV system?

15 A We have about 1,100 cameras.

16 Q And what areas do those cameras monitor?

17 A We focus on gaming. So the gaming floor, the main cage,  
18 any auxiliary cages, the count rooms and anywhere else with  
19 gaming funds or equipment or tables might be stored.

20 Q Does the security department monitor those gaming areas?

21 A No, they don't.

22 Q So you're the security department for gaming areas and  
23 places where gaming funds are used?

24 A I guess you --

25 Q In a sense.

1 A -- could put it that way.

2 Q Well, I mean, who else is watching out for theft, other  
3 than your department in that area?

4 A Via closed circuit TV, nobody.

5 Q Okay. Well, is there a security officer stationed inside  
6 the cage?

7 A No, not generally there's not.

8 Q Or in the soft count room?

9 A No.

10 Q The only thing in there is the cameras, right?

11 A Exactly.

12 Q Where do the techs work?

13 A They have actually two main rooms they work at Bellagio.  
14 There's the equipment room or the server room, which is right  
15 next to our monitor room. And they also have another shop  
16 located elsewhere on the mezzanine level.

17 Q What is kept inside of the server room or the -- you also  
18 called it the equipment room?

19 A There's a couple of work stations for the techs to work  
20 at. And then all the digital recording equipment is also  
21 stored in that room.

22 Q When you say the digital recording equipment, what do you  
23 mean by that?

24 A I mean, all the cameras we have are recording for a  
25 retention period set forth by the Board. All the equipment



1 used to accomplish that is in that room.

2 Q So the camera observes what it observes, I guess. There's  
3 an image that comes through the camera that feeds from the  
4 camera into the server room?

5 A Yes.

6 Q And from the server room, it's I guess processed by the  
7 computer system. And it's also recorded on what amounts to a  
8 very sophisticated DVR?

9 A Exactly.

10 Q Okay. What do you call your DVRs? Is there a name for  
11 it?

12 A Usually NVRs, is network video recorder.

13 Q Okay. And the server in that room, what does the server  
14 do, the computer?

15 A The server just basically processes the incoming signal  
16 and processes it out one way to the storage NVR.

17 Q Uh-huh.

18 A And also processes it out to the monitor room for viewing.

19 Q Are there computer work stations inside that room?

20 A Yes.

21 Q And who's allowed to work in those computer work stations?

22 A The surveillance techs.

23 Q What do the computers in that room allow the -- allow them  
24 to do?

25 A They allow basically maintenance of the system. So they --

1 - each terminal -- I believe there's two -- can connect to  
2 anyone of those servers, troubleshoot, view maintenance logs or  
3 event logs on those servers and find any issues in recording.

4 HEARING OFFICER HIGLEY: Is anybody else allowed to work  
5 on the computers in the server room?

6 THE WITNESS: Nobody else can work on the computers, no.

7 HEARING OFFICER HIGLEY: Does that include the  
8 surveillance lead?

9 THE WITNESS: The lead operator?

10 HEARING OFFICER HIGLEY: The lead tech. Sorry. The lead  
11 tech --

12 THE WITNESS: The lead tech would also have access to  
13 them.

14 HEARING OFFICER HIGLEY: Okay. How about yourself?

15 THE WITNESS: I have access to the room, but -- and yes, I  
16 access to the computers.

17 HEARING OFFICER HIGLEY: Okay.

18 Q BY MR. TRIMMER: Is access to the room controlled in some  
19 way?

20 A It is.

21 Q How is it controlled?

22 A It's an electronic lock system. We use -- they have a  
23 keypad. You can key in a code or we have wireless transmitter  
24 bobs that'll open the door.

25 Q Is that kind of like a fancy version of the card you use

1 to get into parking garages?

2 A Exactly.

3 Q Okay. And who's responsible for that electronic access  
4 control system for that door?

5 A The surveillance techs.

6 Q Do they -- and when I say are responsibility, or when you  
7 say it's responsible, what do they do?

8 A They install the hardware. They program it to allow the  
9 correct people access. They maintain the software system that  
10 monitors all the hardware and grants or denies access to the  
11 proper personnel.

12 Q Do any other employees have the ability to do that?

13 A No.

14 Q The surveillance monitor room, is access controlled to  
15 that room?

16 A Yes.

17 Q And how is it controlled there?

18 A Exact same way.

19 Q So exactly the same as the server room?

20 A Yes.

21 Q Can the surveillance operators enter the server room?

22 A No.

23 Q So who are the employees that have access to that room?

24 A The access to the server room is limited to the  
25 technicians, myself and shift supervisors.

1 Q In the entire hotel casino?

2 A That's correct.

3 Q Okay. Have you heard of a phrase called key employee?

4 A Yes.

5 Q What is a key employee?

6 A A key employee is -- I believe it's classified by the  
7 company. It places certain limits on employees they deem key  
8 to the gaming operation in order -- sets certain limits on them  
9 to eliminate any appearance of conflict of interest.

10 Q And are surveillance techs considered to be key employees?

11 A Yes.

12 Q Does being a key employee have any impact on the  
13 background check process?

14 A Yes, to my surveillance techs and surveillance monitor  
15 room personnel both go through fairly stringent background  
16 checks.

17 Q Do you know how that background checks compare -- that  
18 background check compares to say, a security officer?

19 A Security officers are a tier two background check and  
20 technicians are tier three. Monitor room personnel are tier  
21 four.

22 Q What's the highest level?

23 A Four.

24 Q Okay. Do surveillance techs work in the monitor room?

25 A Yes. Yes, they do.

1 Q What do they do in there?

2 A They're in the monitor room and quite often they perform  
3 maintenance on the work stations. They update work sta --  
4 update the software on the work stations. If there were any  
5 issues with say access of recorded video, they might be in the  
6 monitor room to troubleshoot that.

7 Q What do -- who -- when say there is -- when they're in  
8 there to fix something, how do they learn that something needs  
9 to be fixed?

10 A A operator or supervisor would bring it to their attention  
11 normally.

12 Q And how much --

13 A They can also monitor the system from their -- from the  
14 equipment room or workshop and may be able to see a problem  
15 that way.

16 Q So how often are they in that room during any given day?

17 A Anywhere between at minimum, twice, because they clock in  
18 and clock out there. And they could be in there all day. We  
19 just had two days, I'd say two weeks ago, where they were  
20 performing maintenance on all the work stations. So for two  
21 days straight they were in the monitor room.

22 Q With respect to the server room, where they have that work  
23 station, you said no one else -- well, you identified the small  
24 number of individuals that have access to that room. If there  
25 is an electrical problem with that room and you need -- with

1 like a plug, for example. Or maybe the light switch goes bad  
2 and you need an engineer to come in and fix it, can the  
3 engineer access that room by himself?

4 A No.

5 Q Or herself?

6 A No.

7 Q How does the engineer access the room?

8 A They would need to be given access by myself or a  
9 surveillance tech and escorted while they were in that room.

10 Q Who would provide that escort?

11 A Most likely the surveillance techs.

12 Q And would they be allowed to leave the engineer in that  
13 room by himself --

14 A No.

15 Q -- or herself? No?

16 A No.

17 Q What hours of work do the surveillance techs maintain?

18 A I would call it an early day shift. Anywhere between 3:00  
19 a.m. and about 2:00 p.m.

20 Q 3 a.m.? Why do they start so early?

21 A Certain projects that take place on the floor, we like to  
22 do while business is at its lightest. 3, 4, 5:00 a.m., the  
23 casino is about as empty as it gets on weekdays.

24 Q And then when the -- they go off around 2:00. Is that  
25 what you said?



1 A Yes.

2 Q Okay. Do you have coverage after 2:00?

3 A Coverage of?

4 Q Does -- do you have surveillance techs on call after that  
5 time?

6 A We can call them as needed, yes.

7 Q Okay. Is there anyone who can perform their work while  
8 they're not on duty?

9 A No.

10 Q So if you have an issue with a camera, for example, that  
11 needs to be fixed, how would you address that, if the  
12 surveillance tech was not on duty?

13 A If it was an absolutely vital camera, we would try to  
14 provide backup coverage with a PTZ, alternative coverage. If  
15 that couldn't be done and we wouldn't be able to make the  
16 effort to repair it within 72 hours, we would place a call and  
17 one of the surveillance techs would need to come in.

18 Q Have you done that in the past?

19 A We have.

20 Q Okay.

21 HEARING OFFICER HIGLEY: I want to clarify. After 2:00  
22 p.m. then, there are no surveillance techs scheduled to be on  
23 duty.

24 THE WITNESS: That's correct.

25 HEARING OFFICER HIGLEY: The only way they'd be available

1 as being on-call?

2 THE WITNESS: Yes.

3 HEARING OFFICER HIGLEY: Thank you.

4 Q BY MR. TRIMMER: Now, we've been talking a little bit  
5 about the camera system. What's your -- what is the  
6 surveillance department's responsibility with respect to the  
7 camera system?

8 A We're solely responsible for keeping the camera system  
9 running, operating in accordance with the regulations.

10 Q And what's the purpose of the surveillance camera system?

11 A In order to protect the assets of the company and the  
12 safety of the guests.

13 Q Do you have to maintain records of the camera coverage  
14 from time to time?

15 A Yes.

16 Q I'm going to show you a document that'll be marked as  
17 Employer's Exhibit 3. Do you recognize this document?

18 A I do.

19 Q What is it?

20 A It is a small portion of our camera map.

21 Q At the upper right hand corner, it says PIT 7 Salon Prive?

22 A Yes.

23 Q And what is PIT 7 Salon Prive?

24 A It's a baccarat pit.

25 Q Okay. So each one of the -- well, let's walk through

1 this. At the top in the middle, I see two pink half circles.

2 Do you see that?

3 A Yes.

4 Q Okay. And it has -- one of the pink half circles has the  
5 number seven and then BC14. Do you see that?

6 A Yes.

7 Q What is that?

8 A That is a baccarat table and that's the tab -- that  
9 denotes the table number.

10 Q And then beneath the black table number it has C/1761. Do  
11 you see that?

12 A Yes.

13 Q What does that mean?

14 A That is the fixed camera number for that table.

15 Q Okay. Now, on the left side of that same oval, there's  
16 the number 761. And it's in a blue oval. Do you see that?

17 A Yes.

18 Q What does that denote?

19 A That denotes a pan tilt zoom camera.

20 Q What's a pan tilt zoom camera?

21 A It's a camera that can be manipulated from the monitor  
22 room to zoom in on any activity in its field of view basically  
23 in a 360 degree view.

24 Q Okay. So you sa -- earlier you used the term fixed  
25 camera. What's a fixed camera?

1 A A fixed camera is stationary. Basically we focus the  
2 field on a table, an entrance, something like that, and it --  
3 that's what it sees -- all the time.

4 Q And who is respon -- what is the purpose of the fixed  
5 camera?

6 A Many times a fixed camera, what we use -- are called  
7 dedicated cameras. And that -- those are the coverages  
8 required by gaming statutes.

9 Q And then -- so it's an overhead shot of the baccarat  
10 table?

11 A Correct.

12 Q Okay. Does it cover the patrons?

13 A To a small extent. It can cover their -- I mean, it  
14 covers the entire table, so their hand motions and things like  
15 that.

16 Q What is required by gaming control that you be able to  
17 see? So do you have to be able to see all of their fingers, or  
18 -- what do you need to be able to see?

19 A We need to be able to see the activities on the gaming  
20 table, so that's why we focus on the entire layout. We see the  
21 table bankroll, the card, every card that's dealt on that game  
22 and the activity, like the bet placing activities of the  
23 patron.

24 Q Who's responsible for insuring that the fixed camera  
25 captures all of the required information?

1 A The surveillance tech.

2 Q And how do they do that?

3 A They will -- once a camera's installed, or moved,  
4 adjusted, they will usually site in the camera using a small  
5 hand held monitor they carry with them to get it, you know,  
6 close. And at that point, they will call the monitor room and  
7 verify that the coverage is sufficient through the system.

8 Q When they call the monitor room, who do they speak to?

9 A An operator, supervisor, somebody in the monitor room.

10 Q What device do they use to call the monitor room?

11 A Either a radio, usually a phone.

12 Q A phone. The radio. Is there a channel for the  
13 surveillance department?

14 A I believe we do have a channel. We've kind of gone away  
15 from the radio --

16 Q Why --

17 A -- in recent years. The techs find it more convenient to  
18 just use their phones.

19 Q So they have dedicated work phones?

20 A No. No. This is their -- either a PIT phone --

21 Q Okay.

22 A -- because they have to have two techs. They might relay  
23 the information or they may use their personal phones.

24 Q And then they call someone in the operator room.

25 A Yes.

1 Q And then what does the opera -- when they call the  
2 operator, what does the operator say or do?

3 A They just the coverage, make sure it's sufficient, covers  
4 all the activity I just mentioned. And then they'll -- either  
5 they or the techs will take a picture. And in the event that  
6 the coverage needs approval by gaming, they'll take a picture  
7 and send it for approval.

8 Q You mentioned that sometimes they won't call the operator  
9 room. They call another tech. Why would they call another  
10 tech?

11 A Because they can see the same thing as the monitor room.

12 Q Where would that tech be located?

13 A Probably in the equipment room.

14 Q The server room?

15 A Yes.

16 Q So the techs have the ability to view surveillance video  
17 from the server room?

18 A Yes.

19 Q Okay. In what situation would they call a tech to help  
20 them site that?

21 A Sometimes they may just feel it's easier dealing with  
22 another tech or the monitor room's excessively busy for some  
23 reason.

24 Q Okay. Now, the pan tilt zoom camera, for example, the one  
25 that's 761, what is that camera used for in your surveillance



1 operation?

2 A What we'll use that for is if we get a call about high  
3 action on that game, for instance. We'll use it to first  
4 identify all the players, if needed, later. And then we'll set  
5 up a shot on the game, which usually gives a little bit better  
6 angle to tell maybe stack size of bets a little bit closer.  
7 Maybe if we have some suspicion of the dealer, we can focus  
8 right on his or hands, a shoe, just more focused coverage when  
9 we need it.

10 Q You mentioned concerns about the dealer. Does your  
11 department ever perform investigations on dealers?

12 A Absolutely.

13 Q What kind of investigation would you perform on a dealer?

14 A We perform routine observations of dealers on a nightly  
15 basis, just to insure following procedure policy and the game  
16 rules. On occasion we may have a request to perform a special  
17 observation on a dealer, which means basically through their  
18 whole shift we just watch their activities.

19 Q Is there -- and are you familiar with the term a camera  
20 being locked out?

21 A Yes.

22 Q And what does that mean?

23 A A camera can be locked out for any reason. Like a PTZ  
24 might be used to obtain required coverage. In that instance,  
25 we don't want that camera to be accidentally room and destroy

1 that coverage, so we lock it out.

2 Q It is -- can they also be locked out to provide  
3 investigatory information?

4 A Sure.

5 HEARING OFFICER HIGLEY: What does it mean to lock out a  
6 camera?

7 THE WITNESS: It means a pan tilt zoom camera, which  
8 usually you can move, in this case the surveillance techs would  
9 remove that ability. So it in essence becomes a fixed camera.

10 Q BY MR. TRIMMER: And that was going to be my next  
11 question. Which employees are responsible for locking out  
12 cameras?

13 A Surveillance techs.

14 Q Is that -- we've been talking about pan tilt zoom cameras,  
15 fixed cameras. What other kinds of cameras does Bellagio use  
16 to provide surveillance?

17 A We -- you have pinhole cameras used for ID shots at the  
18 cage, certain other areas. And 360 degree cameras.

19 Q What's a 360 degree camera?

20 A It basically records a fish eye view of the entire field  
21 around the camera 360 degrees.

22 Q And do all of those cameras feed back to the server room?

23 A They do.

24 Q Once they get to the server room, how is -- how are those  
25 video feeds managed? Is there -- are there physical switches,

1 where you turn the feeds on and off or is it managed some other  
2 way?

3 A It's managed through a software system.

4 Q What's the software system called?

5 A It's a Honeywell Enterprise System.

6 Q And who's responsible for managing the Honeywell  
7 Enterprise system?

8 A The surveillance techs.

9 Q What does the Honeywell Enterprise System do?

10 A It basically manages the entire video storage operation.  
11 It will set permissions for users, who can access what servers,  
12 cameras, what they can do to video that's been archived And  
13 basically tells the hardware -- tells the server feed this  
14 camera to this ray -- hard drive, where to feed it in the  
15 monitor room, what number it shows as. Basically every aspect  
16 of the digital surveillance system.

17 Q Okay. So looking at Employer's Exhibit 3, are each of  
18 these camera numbers, those are in the Honeywell system?

19 A Yes.

20 Q And then using, say, camera 761, what kinds of things --  
21 as an example -- what kinds of things can the Honeywell system  
22 allow you to do with that camera? That was a bad question.  
23 Let me ask you a better question. So, camera 761, right, when  
24 it goes into the Honeywell system so it feeds back to the  
25 server room, and it gets to the computer. The computer says,

1 certain people can see that camera feed, right?

2 A Yes.

3 Q Okay. And who manages that ability?

4 A The surveillance techs.

5 Q And explain how that works?

6 A There's basically a user management system. Everybody  
7 that has a logon to a surveillance work station, it will  
8 recognize that logon and give them permission to view whichever  
9 cameras they've been set up in the administrative system to  
10 view.

11 Q Okay. So presumably in the normal course, a surveillance  
12 operator would have the ability to access the video feed from  
13 761?

14 A That's correct.

15 Q Okay. And so if they are sitting in the monitor room,  
16 they could call up camera 761 and look at it?

17 A Yes.

18 Q And then because it's a pan tilt zoom, they could also  
19 manipulate it?

20 A Yes.

21 Q Okay. Can that access be changed for a particular camera  
22 or a surveillance operator?

23 A Yes, it could.

24 Q And how would it be changed?

25 A Just -- anybody with admin rights could go in and -- and

1 eliminate certain users' ability to see that camera.

2 Q Who has admin rights over the Honeywell system at  
3 Bellagio?

4 A Myself and surveillance techs.

5 Q That's it?

6 A That's it.

7 Q And just to continue on with this example, if -- if you  
8 wanted a particular surveillance operator to have access to  
9 camera 762 and 771 and all the other pan tilt zoom cameras on  
10 Employer's Exhibit 3 but wanted to deny them access to 761,  
11 that could be done?

12 A That could be done.

13 Q And how would that be done?

14 A The same way. It would just be in the user management  
15 system. You would just -- that person you were trying to deny  
16 had their logon not recognize that -- not be able to access  
17 that camera.

18 Q And by extension could -- and a surveillance tech would do  
19 that?

20 A Yes.

21 Q Only a surveillance tech?

22 A Yes.

23 Q And by extension if the surveillance tech decided or was  
24 instructed either way that no one in the surveillance operator  
25 room would be able to view camera 761, could he do that?

1 A Yes, he could.

2 Q And what if he decided that he didn't want any of the  
3 cameras in this baccarat pit -- so all of the pan tilt zooms  
4 and all of the fixed cameras -- would he be able to adjust  
5 access in that way?

6 A Yes.

7 Q He could black -- black out this entire pit?

8 A Absolutely.

9 Q Could he do it for a temporary amount of time?

10 A Sure.

11 Q Could he block it out permanently?

12 A Yeah. As -- as long as the problem wasn't noticed.

13 Q Well, for example, if -- would he be a -- would a -- would  
14 surveillance techs with admin rights be able to exclude -- or  
15 preclude all other administrative users from being able to  
16 adjust the camera coverage in this pit?

17 A Sure.

18 Q How would he do that?

19 A He would basically log in as an administrator because the  
20 -- the techs use of generic login -- the administrator login --  
21 they could simply change the password. Nobody would know.  
22 Remove my administrator access, change the permissions, and  
23 nobody would be able to fix it.

24 Q Now, that would presumably be a violation of company  
25 policy?



1 A Absolutely would.

2 Q But they wouldn't require any special permission to do  
3 that? Or you --

4 A No.

5 Q You -- it wouldn't -- it wouldn't require your approval to  
6 do it?

7 A No. And they make a change to the system. I don't get  
8 like a popup asking for my approval. It just -- they're the  
9 alpha admin. So --

10 HEARING OFFICER HIGLEY: Are we talking about -- are there  
11 regular changes that they make?

12 THE WITNESS: Sure. Any time a camera would be added to  
13 the system, it's a change. The software must be updated to  
14 recognize that camera. Those kind of changes were made all the  
15 time.

16 HEARING OFFICER HIGLEY: Do they ever make changes in  
17 access to, for example, operators?

18 THE WITNESS: Sure. If say, you know, new hires -- they  
19 have to give access to -- to that. If somebody's terminated,  
20 they remove access. In -- in certain cases, we may -- very  
21 rarely in surveillance -- but in certain cases we may want to  
22 eliminate somebody's access to certain cameras or various --

23 HEARING OFFICER HIGLEY: Okay. Can they do all of those  
24 things? Under company policy can they do all of those things  
25 without a supervisor's or your own authorization?

1 THE WITNESS: Yes. They can add users and remove users.

2 Any restriction on -- on access would be at my direction

3 assuming proper --

4 HEARING OFFICER HIGLEY: How --

5 THE WITNESS: -- access.

6 HEARING OFFICER HIGLEY: How do they know whom to add?

7 THE WITNESS: I would let them know. I would let them  
8 know we have somebody new starting there and give them their  
9 name, and they'd create a login.

10 HEARING OFFICER HIGLEY: Okay.

11 Q BY MR. TRIMMER: So Employer's Exhibit 3 is an example of  
12 coverage in a particular baccarat pit. I'm assuming that this  
13 is not a current map, right?

14 A It is not.

15 Q Okay. But are there similar maps for every area of  
16 surveillance that's -- every area of the hotel casino covered  
17 by surveillance?

18 A Yes.

19 Q And we were just talking a little bit about how the  
20 surveillance techs could adjust or change access rights for the  
21 cameras in this pit. Would they be able to do that for any of  
22 the cameras within the surveillance CCTV network?

23 A Yes.

24 Q In the same way?

25 A Yes.

1 Q Okay. Now, this is a pit. Are -- does the Bellagio's  
2 gaming floor -- is it the same at all -- all times or is it --  
3 does it change from time to time?

4 A It changes quite a bit actually. We have table moves for  
5 certain events. Chinese New Year, we increase the number of  
6 baccarat tables, maybe not so many blackjack tables, that kind  
7 of thing.

8 Q And in the event that you move tables around, what does  
9 the surveillance department have to do?

10 A We have to ensure our coverage is still adequate. If they  
11 add tables, we might need to add cameras, resite existing  
12 cameras. Any change, like I had mentioned, like a blackjack  
13 game for a baccarat game, we would have to go and make sure  
14 that camera still covers the appropriate area.

15 Q And that -- does that require siting?

16 A Yes.

17 Q And it requires in some cases installation of a new  
18 camera?

19 A Yes.

20 Q Okay. Who -- what worker classification is responsible  
21 for that?

22 A Surveillance techs.

23 Q Okay.

24 HEARING OFFICER HIGLEY: Counsel, I was waiting for a good  
25 moment. I don't know if there is one. But we're a couple

1 minutes before 5:00. I understand the building closes up tight  
2 at 5:00. Also, our court reporter is on overtime after 5:00.

3 Is there -- is there a good time to -- are you reaching a  
4 point where you can stop your questioning for the day?

5 MR. TRIMMER: Now is as good a time as any.

6 HEARING OFFICER HIGLEY: Okay. Let's -- let's close the  
7 record for the day then, and we'll resume tomorrow at 9:00 a.m.

8 Off the record.

9 **(Whereupon, the hearing in the above-entitled matter was**  
10 **recessed at 4:59 p.m. until Wednesday, June 24, 2015 at 9 a.m.)**

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This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), Region 28, Case Number 28-RC-154081, Bellagio LLC, d/b/a Bellagio Las Vegas and International Union of Operating Engineers Local 501, AFL-CIO, at the National Labor Relations Board, Region 28, Foley Federal Building, 300 Las Vegas Boulevard South, Las Vegas, Nevada 89101, on Tuesday, June 23, 2015, at 3:17 p.m. was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the reporting or recording, accomplished at the hearing, that the exhibit files have been checked for completeness and no exhibits received in evidence or in the rejected exhibit files are missing.



JENNIFER GEROLD

Official Reporter

FORM NLRB-502 (RC)  
(4-15)UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**RC PETITION**

DO NOT WRITE IN THIS SPACE

Case No.

28-RC-154081

Date Filed

06/12/2015

**INSTRUCTIONS:** Unless e-Filed using the Agency's website, [www.nlr.gov](http://www.nlr.gov), submit an original of this Petition to an NLRB office in the Region in which the employer concerned is located. The petition must be accompanied by both a showing of interest (see 6b below) and a certificate of service showing service on the employer and all other parties named in the petition of: (1) the petition; (2) Statement of Position form (Form NLRB-505); and (3) Description of Representation Case Procedures (Form NLRB 4812). The showing of interest should only be filed with the NLRB and should not be served on the employer or any other party.

**1. PURPOSE OF THIS PETITION: RC CERTIFICATION OF REPRESENTATIVE** - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees. The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.

2a. Name of Employer

Bellagio Hotel

2b. Address(es) of Establishment(s) involved (Street and number, city, State, ZIP code)

3800 S. Las Vegas BLVD. Las Vegas, Nevada

3a. Employer Representative - Name and Title

Beth Foster Director of Human Resources

3b. Address (If same as 2b - state same)

same

3c. Tel. No.

702-693-8261

3d. Cell No.

3e. Fax No.

702-693-8579

3f. E-Mail Address

befoster@bellagioresort.com

4a. Type of Establishment (Factory, mine, wholesaler, etc.)

Hotel and Casino

4b. Principal product or service

Gaming, Lodging, Entertainment

5a. City and State where unit is located:

Las Vegas, Nevada

5b. Description of Unit Involved

Included: All full time and part time Surveillance Techs at the Employers Facility

Excluded: All other employees including office, clerical, professional, guards, and supervisors as defined in the act.

6a. No. of Employees in Unit:

4

6b. Do a substantial number (30% or more) of the employees in the unit wish to be represented by the Petitioner? Yes ☒ No ☐

Check One:

☐

7a. Request for recognition as Bargaining Representative was made on (Date) \_\_\_\_\_ and Employer declined recognition on or about (Date) \_\_\_\_\_ (If no reply received, so state).

☐

7b. Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.

8a. Name of Recognized or Certified Bargaining Agent (If none, so state).

none

8b. Address

N/A

8c. Tel No.

N/A

8d. Cell No.

N/A

8e. Fax No.

N/A

8f. E-Mail Address

N/A

8g. Affiliation, if any

N/A

8h. Date of Recognition or Certification

N/A

8i. Expiration Date of Current or Most Recent Contract, if any (Month, Day, Year)

N/A

9. Is there now a strike or picketing at the Employer's establishment(s) involved? no If so, approximately how many employees are participating? U(Name of labor organization) N/Ahas picketed the Employer since (Month, Day, Year) N/A

10. Organizations or individuals other than Petitioner and those named in items 8 and 9, which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in the unit described in item 5b above. (If none, so state)

None

10a. Name

N/A

10b. Address

N/A

10c. Tel. No.

N/A

10d. Cell No.

N/A

10e. Fax No.

N/A

10f. E-Mail Address

N/A

11. Election Details: If the NLRB conducts an election in this matter, state your position with respect to any such election.

11a. Election Type: ☒ Manual ☐ Mail ☐ Mixed Manual/Mail

11b. Election Date(s):

6-22-15

11c. Election Time(s):

12am-3pm

11d. Election Location(s):

Training Room A

12a. Full Name of Petitioner (including local name and number)

International Union of Engineers Local 501, AFL-CIO

12b. Address (street and number, city, state, and ZIP code)

301 Deauville St. Las Vegas, Nevada 89106

12c. Full name of national or international labor organization of which Petitioner is an affiliate or constituent (if none, so state)

International Union of Engineers Local 501, AFL-CIO

12d. Tel No.

702-382-8452

12e. Cell No.

702-622-0846

12f. Fax No.

702-386-5813

12g. E-Mail Address

jsoto@local501.org

13. Representative of the Petitioner who will accept service of all papers for purposes of the representation proceeding.

13a. Name and Title Jose Soto Director of Organizing

13b. Address (street and number, city, state, and ZIP code)

301 Deauville St. Las Vegas, Nevada 89106

13c. Tel No.

702-382-8452

13d. Cell No.

702-622-0846

13e. Fax No.

702-386-5813

13f. E-Mail Address

jsoto@local501.org

I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.

Name (Print)

Jose Soto

Signature



Title

Director of Organizing

Date

6-12-15

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

## PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

BD Exhibit 1(a)

0101

EXHIBIT NO. B-1a RECEIVED X REJECTED \_\_\_\_\_  
28-PC-154081  
CASE NO. \_\_\_\_\_ CASE NAME: Bellegio  
NO. OF PAGES: 2 DATE: 6/24/15 REPORTER: JB  
0102





UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 28



**BELLAGIO HOTEL**

**Employer**

**and**

**MGM MIRAGE HOTEL CASINO**

**Employer**

**and**

**ARIA HOTEL**

**Employer**

**and**

**MGM GRAND LAS VEGAS**

**Employer**

**and**

**INTERNATIONAL UNION OF ENGINEERS  
LOCAL 501, AFL-CIO**

**Petitioner**

**Case 28-RC-154081**

**Case 28-RC-154083**

**Case 28-RC-154093**

**Case 28-RC-154099**

**NOTICE OF REPRESENTATION HEARINGS AND ORDER  
SETTING HEARINGS TO BE HELD SERIATIM**

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act. In order to effectuate the purposes of the Act, for administrative convenience, and to avoid unnecessary costs or delay, I HEREBY ORDER the hearings to be held seriatim, one case following the other.

**YOU ARE HEREBY NOTIFIED** that, pursuant to Sections 3(b) and 9(c) of the Act, at 10:00 a.m. on **Monday, June 22, 2015** and on consecutive days thereafter until concluded, at the Hearing Room of the National Labor Relations Board offices located at, 300 Las Vegas Boulevard South, Suite 2-901, Las Vegas, NV 89101, hearings will be conducted before a hearing officer of the National Labor Relations Board. At the hearings, the parties will have the right to appear in person or otherwise, and give testimony.

**BD Exhibit 1(b)**

EXHIBIT NO. B-16 RECEIVED X REJECTED \_\_\_\_\_  
CASE NO. 28-PC-154081 CASE NAME: Bell/CG/D  
NO. OF PAGES: 3 DATE: 6/23/15 REPORTER: JD

**YOU ARE FURTHER NOTIFIED** that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, the Employers must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that is received by them by no later than noon Pacific time on **June 19, 2015**. The Statement of Position may be E-Filed but, unlike other E-Filed documents, must be filed by noon Pacific on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position is not required to be filed.

Dated: June 12, 2015

*/s/ Cornele A. Overstreet*

---

Cornele A. Overstreet, Regional Director

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

<b>BELLAGIO HOTEL</b>  <b>Employer</b>  <b>and</b>  <b>INTERNATIONAL UNION OF ENGINEERS LOCAL 501, AFL-CIO</b>  <b>Petitioner</b>	<b>Case 28-RC-154081</b>
---	--------------------------

**AFFIDAVIT OF SERVICE OF: Petition dated June 12, 2015, Notice of Representation Hearing dated June 12, 2015, Description of Procedures in Certification and Decertification Cases (Form NLRB-4812), Notice of Petition for Election, and Statement of Position Form (Form NLRB-505).**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on June 12, 2015, I served the above documents by electronic mail and regular mail upon the following persons, addressed to them at the following addresses:

Bellagio Hotel  
3600 Las Vegas Boulevard South  
Las Vegas, NV 89109-4303  
Fax: (702)693-8579

International Union of Engineers Local 501,  
AFL-CIO  
301 Deauville Street  
Las Vegas, NV 89106-3998  
Fax: (702)386-5813

June 12, 2015

Date

Kay Davis, Designated Agent of NLRB

Name

/s/ Kay Davis

Signature

**BD Exhibit 1(c)**

EXHIBIT NO. B-1c RECEIVED X REJECTED \_\_\_\_\_  
CASE NO. 28-RC-154081 CASE NAME: Bellagio  
NO. OF PAGES: 2 DATE: 6/23/15 REPORTED BY: B  
0107

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 28**

**BELLAGIO, LLC**

**Employer,**

**and**

**INTERNATIONAL UNION OF  
OPERATING ENGINEERS LOCAL 501,**

**Petitioner.**

**Case No. 28-RC-154081**

**EMPLOYER'S MOTION TO DISMISS THE PETITION**

Gary C. Moss  
mossg@jacksonlewis.com  
Paul T. Trimmer  
trimmerp@jacksonlewis.com  
JACKSON LEWIS P.C.  
3800 Howard Hughes Parkway  
Suite 600  
Las Vegas, Nevada 89169  
PH: (702) 921-2460  
FAX: (702) 921-2461

*Counsel for the Employer*

**BD Exhibit 1(d)**

EXHIBIT NO. B-1d RECEIVED X REJECTED \_\_\_\_\_  
28-PC-154081  
CASE NO. \_\_\_\_\_ CASE NAME: Bellagio  
NO. OF PAGES: 33 DATE: 6/23/15 REPORTER Jr



**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 28**

**BELLAGIO, LLC**

**Employer,**

**Case No. 28-RC-154081**

**and**

**INTERNATIONAL UNION OF  
OPERATING ENGINEERS LOCAL 501,**

**Petitioner.**

**EMPLOYER'S MOTION TO DISMISS PETITION**

Bellagio, LLC ("The Employer" or "Bellagio"), improperly named "Bellagio Hotel", hereby moves to dismiss the petition in 28-RC-154081. The petition is defective, and the Petitioner, the International Union of Operating Engineers Local 501 ("Petitioner" or the "Union") has failed to comply with the Board's Rules and Regulations.

**I. STATEMENT OF FACTS**

The Union filed the petition with Region 28 on June 12, 2015. The petition identifies an employer called "Bellagio Hotel." The Union left Section 7 of the petition blank. Attached as Exhibit A are copies of the documents that Petitioner's organizer, Richard Lile, emailed to Beth Foster, the Employer's Director of Human Resources, on June 12, 2015. The documents include an undocketed petition, a Description of Representation Case Procedures (form NLRB-4812), a Statement of Position form, and a Questionnaire on Commerce Information form. Attached as Exhibit B are copies of the Petition and accompanying papers that Christian D. Zayas, Region 28's Language Clerk, emailed to Ms. Foster at approximately 5:00 p.m. on June 12, 2015.

The email from Mr. Lile was the first contact that Ms. Foster or anyone else at Bellagio had with the Union regarding the petition. The Union did not request that the Employer recognize it as the bargaining representative of the petitioned for unit prior to filing the petition.

**II. THE PETITION SHOULD BE DISMISSED BECAUSE IT DOES NOT COMPLY WITH SECTION 102.61 OF THE BOARD'S RULES AND REGULATIONS.**

Section 102.61(a) of the Board's Rules and Regulations sets forth the requirements for RC petitions. It provides in relevant part:

Contents of petition for certification; contents of petition for decertification; contents of petition for clarification of bargaining unit; contents of petition for amendment of certification.

(a) *RC Petitions.* A petition for certification, when filed by an employee or group of employees or an individual or labor organization acting in their behalf, shall contain the following:

...

(8) A statement that the employer declines to recognize the petitioner as the representative within the meaning of Section 9(a) of the Act or that the labor organization is currently recognized but desires certification under the Act.

§ 102.61 (emphasis added).

Section 102.61(a)'s use of the phrase "shall contain" "indicates an intent to impose discretionless obligations." *Federal Express Corp. v. Holowecki*, 552 U. S. 389, 400 (2008). Put another way, the requirement of Section 102.61(a)(8) must be satisfied or the petition is invalid. The Board's newly adopted petition form – Form NLRB-502 (RC) – effectuates that mandate. Section 7 requires the petitioner to record the actual date on which recognition as Bargaining Representative was requested as well as the date on which the Employer declined representation (or failed to answer).

In this case, the petition does not satisfy the mandatory obligations imposed by Section 102.61(a). The petition does not include a “statement that the employer declines to recognize the petitioner as the representative within the meaning of Section 9(a).” The Union left Section 7 of the petition completely blank and failed to ever request that the Employer recognize it as the representative of the petitioned for unit.

The Union may argue that its blatant failure to comply with the Board’s regulations can be excused. That conclusion, however, is not permitted by the language in the Board’s Rules and Regulations. Several other sections of the Board’s newly adopted representation regulations use the word “shall” to denote mandatory obligations, including the sections pertaining to the voter list, the Notice of Election and the statement of position.<sup>1</sup> As the Supreme Court has noted, “identical words used in different parts of the same act are intended to have the same meaning.” *Atlantic Cleaners & Dyers v. United States*, 286 U.S. 427, 433 (1932). In drafting and adopting the amended representation election rules, the Board used the word *shall* to signify a *mandatory* obligation. If the Board were to hold that compliance with the mandatory language of Section 102.61(a) was not obligatory, it would be required to find that Sections 102.62(d) (voter list),

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<sup>1</sup> For example, Section 102.60 provides that a petition “*may* be filed by any employee or group of employees or any individual or labor organization acting in their behalf.” (emphasis added). It also provides that “[p]etitions under this section *shall* be in writing and signed, and either *shall* be sworn to before a notary public, Board agent, or other person duly authorized by law to administer oaths and take acknowledgments or *shall* contain a declaration by the person signing it, under the penalty of perjury, that its contents are true and correct (see 28 U.S.C. 1746).” Section 102.62(d), which establishes the requirements for the voter list similarly provides that the employer “*shall* provide to the regional director and the parties named in the agreement or direction a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular (“cell”) telephone numbers) of all eligible voters. The employer *shall* also include in a separate section of that list the same information for those individuals whom the parties have agreed should be permitted to vote[.]” Section 102.62(e), which concerns the notice of election, uses the word *shall* repeatedly including in the sentences which provide “The employer *shall* post and distribute the Notice of Election in accordance with § 102.67(k).”

102.62(e) (Notice of Election), and 102.63 (Notice and Statement of Position) are also permissive. The language of the regulation does not permit a different result.

### III. CONCLUSION

The Union's petition does not satisfy the mandatory obligations in Section 102.61(a)(8). It is invalid and must be dismissed.

Dated this 16th day of June, 2015.

Respectfully submitted,

JACKSON LEWIS P.C.

By: /s/ Paul T. Trimmer  
Gary C. Moss  
Paul T. Trimmer  
3800 Howard Hughes Parkway, Suite 600  
Las Vegas, Nevada 89169  
(702) 921-2460  
*Counsel for the Employer*

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 28**

**BELLAGIO, LLC**

**Employer,**

**Case No. 28-RC-154081**

**and**

**INTERNATIONAL UNION OF  
OPERATING ENGINEERS LOCAL 501,**

**Petitioner.**

**CERTIFICATE OF SERVICE**

In addition to filing this Motion to Dismiss via the NLRB's electronic filing system, we hereby certify that copies have been served this 16th day of June, 2015, by email upon:

Mr. Cornele A. Overstreet  
Regional Director  
National Labor Relations Board  
Region 28  
2600 N. Central Avenue, Suite 1400  
Phoenix, Arizona 85004-3019  
Email: cornele.overstreet@nlrb.gov

Nathan Higley  
Field Attorney  
300 Las Vegas Blvd. South, Suite 2-901  
Las Vegas, NV 89101  
nathan.higley@nlrb.gov

Jose Soto  
301 Deauville St.  
Las Vegas, NV 89106  
jsoto@local501.org

/s/ Paul T. Trimmer

Paul T. Trimmer

# EXHIBIT A

FORM NLRB-502 (RC)  
(4-15)UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**RC PETITION**

DO NOT WRITE IN THIS SPACE

Case No.

Date Filed

**INSTRUCTIONS:** Unless e-Filed using the Agency's website, [www.nlrb.gov](http://www.nlrb.gov), submit an original of this Petition to an NLRB office in the Region in which the employer concerned is located. The petition must be accompanied by both a showing of interest (see 6b below) and a certificate of service showing service on the employer and all other parties named in the petition of: (1) the petition; (2) Statement of Position form (Form NLRB-505); and (3) Description of Representation Case Procedures (Form NLRB 4812). The showing of interest should only be filed with the NLRB and should not be served on the employer or any other party.

1. PURPOSE OF THIS PETITION: RC-CERTIFICATION OF REPRESENTATIVE - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees. The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.

2a. Name of Employer

Bellagio Hotel

2b. Address(es) of Establishment(s) Involved (Street and number, city, State, ZIP code)

3600 S. Las Vegas BLVD, Las Vegas, Nevada

3a. Employer Representative - Name and Title

Beth Foster Director of Human Resources

3b. Address (if same as 2b - state same)

same

3c. Tel. No.

702-693-8261

3d. Cell No.

3e. Fax No.

702-693-8579

3f. E-Mail Address

befoster@bellagioresort.com

4a. Type of Establishment (Factory, mine, wholesaler, etc.)

Hotel and Casino

4b. Principal product or service

Gaming, Lodging, Entertainment

5a. City and State where unit is located;

Las Vegas, Nevada

5b. Description of Unit Involved

Included: All full time and part time Surveillance Techs at the Employers Facility

Excluded: All other employees including office, clerical, professional, guards, and supervisors as defined in the act.

6a. No. of Employees in Unit:

4

6b. Do a substantial number (30% or more) of the employees in the unit wish to be represented by the Petitioner? Yes ☒ No ☐

Check One:

☐

7a. Request for recognition as Bargaining Representative was made on (Date) \_\_\_\_\_ and Employer declined recognition on or about (Date) \_\_\_\_\_ (If no reply received, so state).

☐

7b. Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.

8a. Name of Recognized or Certified Bargaining Agent (if none, so state).

None

8b. Address

N/A

8c. Tel. No.

N/A

8d. Cell No.

N/A

8e. Fax No.

N/A

8f. E-Mail Address

N/A

8g. Affiliation, if any

N/A

8h. Date of Recognition or Certification

N/A

8i. Expiration Date of Current or Most Recent Contract, if any (Month, Day, Year)

N/A

9. Is there now a strike or picketing at the Employer's establishment(s) involved? no If so, approximately how many employees are participating? 0(Name of labor organization) N/A, has picketed the Employer since (Month, Day, Year) N/A

10. Organizations or individuals other than Petitioner and those named in items 8 and 9, which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in the unit described in item 5b above. (If none, so state)

None

10a. Name

N/A

10b. Address

N/A

10c. Tel. No.

N/A

10d. Cell No.

N/A

10e. Fax No.

N/A

10f. E-Mail Address

N/A

11. Election Details: If the NLRB conducts an election in this matter, state your position with respect to any such election.

11b. Election Date(s):

8-22-15

11c. Election Time(s):

12am-3pm

11a. Election Type: ☒ Manual ☐ Mail ☐ Mixed Manual/Mail

11d. Election Location(s):

Training Room A

12a. Full Name of Petitioner (including local name and number)

International Union of Engineers Local 501, AFL-CIO

12b. Address (street and number, city, state, and ZIP code)

301 Deauville St, Las Vegas, Nevada 89106

12c. Full name of national or international labor organization of which Petitioner is an affiliate or constituent (if none, so state)

International Union of Engineers Local 501, AFL-CIO

12d. Tel. No.

702-382-8452

12e. Cell No.

702-622-0846

12f. Fax No.

702-386-5813

12g. E-Mail Address

jsoto@local501.org

13. Representative of the Petitioner who will accept service of all papers for purposes of the representation proceeding.

13a. Name and Title

Jose Soto Director of Organizing

13b. Address (street and number, city, state, and ZIP code)

301 Deauville St Las Vegas, Nevada 89106

13c. Tel. No.

702-382-8452

13d. Cell No.

702-622-0846

13e. Fax No.

702-386-5813

13f. E-Mail Address

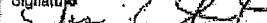
jsoto@local501.org

I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.

Name (Print)

Jose Soto

Signature



Title

Director of Organizing

Date

8-12-15

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

## PRIVACY ACT STATEMENT

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**REVIEW THE FOLLOWING IMPORTANT INFORMATION  
BEFORE FILLING OUT A STATEMENT OF POSITION FORM**

**Completing and Filing this Form:** The Notice of Hearing indicates which parties are responsible for completing the form. If you are required to complete the form, you must have it signed by an authorized representative and file a completed copy (including all attachments) with the RD and serve copies on all parties named in the petition by the date and time established for its submission. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You may E-File your Statement of Position at [www.nlr.gov](http://www.nlr.gov), but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed.**

*Note: Non-employer parties who complete this Statement of Position are NOT required to complete items 8f and 8g of the form, or to provide a commerce questionnaire or the lists described in item 7. In RM cases, the employer is NOT required to complete items 3, 5, 6, and 8a-8e of the form.*

**Required Lists:** The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at <http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015>.

**Consequences of Failure to Supply Information:** Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

FORM NLRB-505  
(4-15)UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
**STATEMENT OF POSITION**

DO NOT WRITE IN THIS SPACE

Case No.

Date Filed

**INSTRUCTIONS:** Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.

**Note:** Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7. In RM cases, the employer is NOT required to respond to items 3, 5, 6, and 8a-8e below.

1a. Full name of party filing Statement of Position		1c. Business Phone:	1e. Fax No.:
1b. Address (Street and number, city, state, and ZIP code)		1d. Cell No.:	1f. e-Mail Address
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)			
3. Do you agree that the proposed unit is appropriate? <input type="checkbox"/> Yes <input type="checkbox"/> No (If not, answer 3a and 3b.)			
a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards.)			
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit. Added _____ Excluded _____			
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.			
5. Is there a bar to conducting an election in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, state the basis for your position.			
6. Describe all other issues you intend to raise at the pre-election hearing.			
7. The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at <a href="http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015">http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015</a> . (a) A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) (b) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit, if any to make it an appropriate unit, (Attachment C) and (2) a list containing the full names of any individuals it contends must be excluded from the proposed unit to make it an			
State your position with respect to the details of any election that may be conducted in this matter. 8a. Type: <input type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail			
8b. Date(s)	8c. Time(s)	8d. Location(s)	
8e. Eligibility Period (e.g. special eligibility formula)	8f. Last Payroll Period Ending Date	8g. Length of payroll period <input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length)	
9. Representative who will accept service of all papers for purposes of the representation proceeding			
9a. Full name and title of authorized representative	9b. Signature of authorized representative	9c. Date	
9d. Address (Street and number, city, state, and ZIP code)			9e. e-Mail Address
9f. Business Phone No.:	9g. Fax No.	9h. Cell No.	

WILLFUL FALSE STATEMENTS ON THIS STATEMENT OF POSITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. Code, Title 18, Section 1001)

**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.69(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.



FORM NLRB-4812  
(4-15)

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD

DESCRIPTION OF REPRESENTATION CASE PROCEDURES  
IN CERTIFICATION AND DECERTIFICATION CASES

The National Labor Relations Act grants employees the right to bargain collectively through representatives of their own choosing and to refrain from such activity. A party may file an RC, RD or RM petition with the National Labor Relations Board (NLRB) to conduct a secret ballot election to determine whether a representative will represent, or continue to represent, a unit of employees. An RC petition is generally filed by a union that desires to be certified as the bargaining representative. An RD petition is filed by employees who seek to remove the currently recognized union as the bargaining representative. An RM petition is filed by an employer who seeks an election because one or more individuals or unions have sought recognition as the bargaining representative, or based on a reasonable belief supported by objective considerations that the currently recognized union has lost its majority status. This form generally describes representation case procedures in RC, RD and RM cases, also referred to as certification and decertification cases.

**Right to be Represented** – Any party to a case with the NLRB has the right to be represented by an attorney or other representative in any proceeding before the NLRB. A party wishing to have a representative appear on its behalf should have the representative complete a Notice of Appearance (Form NLRB-4701), and E-File it at [www.nlr.gov](http://www.nlr.gov) or forward it to the NLRB Regional Office handling the petition as soon as possible.

**Filing and Service of Petition** – A party filing an RC, RD or RM petition is required to serve a copy of its petition on the parties named in the petition along with this form and the Statement of Position form. The petitioner files the petition with the NLRB, together with (1) a certificate showing service of these documents on the other parties named in the petition, and (2) a showing of interest to support the petition. The showing of interest is not served on the other parties.

**Notice of Hearing** – After a petition in a certification or decertification case is filed with the NLRB, the NLRB reviews both the petition and the required showing of interest for sufficiency, assigns the petition a case number, and promptly sends letters to the parties notifying them of the Board agent who will be handling the case. In most cases, the letters include a Notice of Representation Hearing. Except in cases presenting unusually complex issues, this pre-election hearing is set for a date 8 days (excluding intervening federal holidays) from the date of service of the notice of hearing. Once the hearing begins, it will continue day to day until completed absent extraordinary circumstances. The Notice of Representation Hearing also sets the due date for filing and serving the Statement(s) of Position. Included with the Notice of Representation Hearing are a copy of the petition, this form, a Statement of Position form, a Notice of Petition for Election, and a letter advising how to contact the Board agent who will be handling the case and discussing those documents.

**Hearing Postponement:** The regional director may postpone the hearing for up to 2 business days upon request of a party showing special circumstances and for more than 2 business days upon request of a party showing extraordinary circumstances. A party wishing to request a postponement should make the request in writing and set forth in detail the grounds for the request. The request should include the positions of the other parties regarding the postponement. The request should be filed with the regional director. E-Filing the request is preferred, but not required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

**Statement of Position Form and List(s) of Employees** – The Statement of Position form solicits commerce and other information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. As part of its Statement of Position form, the employer also provides a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. If the employer contends that the proposed unit is not appropriate, the employer must separately list the same information for all individuals that the employer contends must be added to the proposed unit to make it an appropriate unit, and must further indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department).

Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be

FORM NLRB-4812 (CONT.)  
(4-15)

used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015).

Ordinarily the Statement of Position must be filed with the Regional Office and served on the other parties such that it is received by them by noon on the business day before the opening of the hearing. The regional director may postpone the due date for filing and serving the Statement of Position for up to 2 business days upon request of a party showing special circumstances and for more than 2 business days upon request of a party showing extraordinary circumstances. The Statement of Position form may be E-Filed but, unlike other E-Filed documents, will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Statement of Position requirement are discussed on the following page under the heading "Preclusion."

A request to postpone the hearing will not automatically be treated as a request for an extension of the Statement of Position due date. If a party wishes to request both a postponement of the hearing and a postponement of the Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

**Posting and Distribution of Notice of Petition for Election** – Within 2 business days after service of the notice of hearing, the employer must post the Notice of Petition for Election in conspicuous places, including all places where notices to employees are customarily posted, and must also distribute it electronically if the employer customarily communicates with its employees electronically. The employer must maintain the posting until the petition is dismissed or withdrawn, or the Notice of Petition for Election is replaced by the Notice of Election. The employer's failure properly to post or distribute the Notice of Petition for Election may be grounds for setting aside the election if proper and timely objections are filed.

**Election Agreements** – Elections can occur either by agreement of the parties or by direction of the regional director or the Board. Three types of agreements are available: (1) a Consent Election Agreement (Form NLRB-651); (2) a Stipulated Election Agreement (Form NLRB-652); and (3) a Full Consent Agreement (Form NLRB-6509). In the Consent Election Agreement and the Stipulated Election Agreement, the parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent. In the Consent Agreement, the parties also agree that post-election matters (election objections or determinative challenged ballots) will be resolved with finality by the regional director; whereas in the Stipulated Election Agreement, the parties agree that they may request Board review of the regional director's post-election determinations. A Full Consent Agreement provides that the regional director will make final determinations regarding all pre-election and post-election issues.

**Hearing Cancellation Based on Agreement of the Parties** – The issuance of the Notice of Representation Hearing does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments and the Board agent assigned to the case will work with the parties to enter into an election agreement, so the parties can avoid the time and expense of participating in a hearing.

**Hearing** – A hearing will be held unless the parties enter into an election agreement approved by the regional director or the petition is dismissed or withdrawn.

*Purpose of Hearing:* The purpose of a pre-election hearing is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit appropriate for the purpose of collective bargaining or, in the case of a decertification petition, concerning a unit in which a labor organization has been certified or is being currently recognized by the employer as the bargaining representative. Disputes concerning individuals' eligibility to vote or inclusion in an appropriate unit ordinarily need not be litigated or resolved before an election is conducted.

*Issues at Hearing:* Issues that might be litigated at the pre-election hearing include: jurisdiction; labor organization status; bars to elections; unit appropriateness; expanding and contracting unit issues; inclusion of professional employees with nonprofessional employees; and eligibility formulas. At the hearing, the Statement of Position will be received into evidence and, prior to the introduction of further evidence, all other parties will respond on the record to each issue raised in the Statement. The hearing officer will not receive evidence concerning any issue as to which the parties have not taken adverse positions, except for evidence regarding the Board's jurisdiction over the employer and evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the regional director determines that record evidence is necessary.



FORM NLRB-4812 (CONT.)  
(4-15)

**Preclusion:** At the hearing, a party will be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party will be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. As set forth in §102.66(d) of the Board's rules, if the employer fails to timely furnish the lists of employees, the employer will be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

**Conduct of Hearing:** If held, the hearing is usually open to the public and will be conducted by a hearing officer of the NLRB. Any party has the right to appear at any hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the existence of a question of representation. The hearing officer also has the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses will be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Parties appearing at any hearing who have or whose witnesses have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, should notify the regional director as soon as possible and request the necessary assistance.

**Official Record:** An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (*Copies of exhibits should be supplied to the hearing officer and other parties at the time the exhibit is offered in evidence.*) All statements made in the hearing room will be recorded by the official reporter while the hearing is on the record. If a party wishes to make off-the-record remarks, requests to make such remarks should be directed to the hearing officer and not to the official reporter. After the close of the hearing, any request for corrections to the record, either by stipulation or motion, should be forwarded to the regional director.

**Motions and Objections:** All motions must be in writing unless stated orally on the record at the hearing and must briefly state the relief sought and the grounds for the motion. A copy of any motion must be served immediately on the other parties to the proceeding. Motions made during the hearing are filed with the hearing officer. All other motions are filed with the regional director, except that motions made after the transfer of the record to the Board are filed with the Board. If not E-Filed, an original and two copies of written motions shall be filed. Statements of reasons in support of motions or objections should be as concise as possible. Objections shall not be deemed waived by further participation in the hearing. On appropriate request, objections may be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

**Election Details:** Prior to the close of the hearing the hearing officer will: (1) solicit the parties' positions (but will not permit litigation) on the type, date(s), time(s), and location(s) of the election and the eligibility period; (2) solicit the name, address, email address, facsimile number, and phone number of the employer's on-site representative to whom the regional director should transmit the Notice of Election if an election is directed; (3) inform the parties that the regional director will issue a decision as soon as practicable and will immediately transmit the document to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided); and (4) inform the parties of their obligations if the director directs an election and of the time for complying with those obligations.

**Oral Argument and Briefs:** Upon request, any party is entitled to a reasonable period at the close of the hearing for oral argument, which will be included in the official transcript of the hearing. At any time before the close of the hearing, any party may file a memorandum addressing relevant issues or points of

FORM NLRB-4812 (CONT.)  
(4-15)

law. Post-hearing briefs shall be filed only upon special permission of the regional director and within the time and addressing the subjects permitted by the regional director. If filed, copies of the memorandum or brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the memorandum or brief. No reply brief may be filed except upon special leave of the regional director. If allowed, briefs should be double-spaced on 8½ by 11 inch paper. Briefs must be filed in accordance with the provisions of Section 102.111(b) of the Board's Rules. E-Filing of briefs through the Board's website, [www.nlr.gov](http://www.nlr.gov), is encouraged, but not required. Facsimile transmission of briefs is NOT permitted.

**Regional Director Decision** - After the hearing, the regional director issues a decision directing an election, dismissing the petition or reopening the hearing. A request for review of the regional director's pre-election decision may be filed with the Board at any time after issuance of the decision until 14 days after a final disposition of the proceeding by the regional director. Accordingly, a party need not file a request for review before the election in order to preserve its right to contest that decision after the election. Instead, a party can wait to see whether the election results have mooted the basis of an appeal. The Board will grant a request for review only where compelling reasons exist therefor.

**Voter List** - The employer must provide to the regional director and the parties named in the election agreement or direction of election a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular ("cell") telephone numbers) of all eligible voters. (In construction industry elections, unless the parties stipulate to the contrary, also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.) The employer must also include in a separate section of the voter list the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge or those individuals who, according to the direction of election, will be permitted to vote subject to challenge.

The list of names must be alphabetized (overall or by department) and be in the same Microsoft Word file (or Microsoft Word compatible file) format as the initial lists provided with the Statement of Position form unless the parties agree to a different format or the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list must be filed electronically with the regional director and served electronically on the other parties named in the agreement or direction.

To be timely filed and served, the voter list must be received by the regional director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction unless a longer time is specified in the agreement or direction. A certificate of service on all parties must be filed with the regional director when the voter list is filed. The employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

**Waiver of Time to Use Voter List** - Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 days after the date when the employer must file the voter list with the Regional Office. However, the parties entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483. A waiver will not be effective unless all parties who are entitled to the list agree to waive the same number of days.

**Election** - Information about the election, requirements to post and distribute the Notice of Election, and possible proceedings after the election is available from the Regional Office and will be provided to the parties when the Notice of Election is sent to the parties.

**Withdrawal or Dismissal** - If it is determined that the NLRB does not have jurisdiction or that other criteria for proceeding to an election are not met, the petitioner is offered an opportunity to withdraw the petition. If the petitioner does not withdraw the petition, the regional director will dismiss the petition and advise the petitioner of the reason for the dismissal and of the right to appeal to the Board.

# **EXHIBIT B**





UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 28  
2600 North Central Avenue, Suite 1400  
Phoenix, AZ 85004

Agency Website: [www.nlrb.gov](http://www.nlrb.gov)  
Telephone: (602)640-2160  
Fax: (602)640-2178



Download  
NLRB  
Mobile App

URGENT

June 12, 2015

Bellagio Hotel  
3600 Las Vegas Boulevard South  
Las Vegas, NV 89109-4303

Re: Bellagio Hotel  
Case 28-RC-154081

Ladies and Gentlemen:

Enclosed is a copy of a petition that International Union of Engineers Local 501, AFL-CIO filed with the National Labor Relations Board (NLRB) seeking to represent certain of your employees. After a petition is filed, the employer is required to promptly take certain actions so please read this letter carefully to make sure you are aware of the employer's obligations. This letter tells you how to contact the Board agent who will be handling this matter, about the requirement to post and distribute the Notice of Petition for Election, the requirement to complete and serve a Statement of Position Form, a scheduled hearing in this matter, other information needed including a voter list, your right to be represented, and NLRB procedures.

**Investigator:** This petition will be investigated by Field Attorney Nathan A. Higley whose telephone number is (702)388-6062. The mailing address is 300 Las Vegas Boulevard South, Suite 2-901, Las Vegas, NV 89101. The Board agent will contact you shortly to discuss processing the petition. If you have any questions, please do not hesitate to call the Board agent. If the agent is not available, you may contact Acting Field Examiner Supervisor Barbara Baynes whose telephone number is (702)388-6565. If appropriate, the NLRB attempts to schedule an election either by agreement of the parties or by holding a hearing and then directing an election.

**Required Posting and Distribution of Notice:** You must post the enclosed Notice of Petition for Election by Tuesday, June 16, 2015 in conspicuous places, including all places where notices to employees are customarily posted. The Notice of Petition for Election must be posted so all pages are simultaneously visible. If you customarily communicate with your employees electronically, you must also distribute the notice electronically to them. You must maintain the posting until the petition is dismissed or withdrawn or this notice is replaced by the

Bellagio Hotel  
Case 28-RC-154081

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June 12, 2015

Notice of Election. Posting and distribution of the Notice of Petition for Election will inform the employees whose representation is at issue and the employer of their rights and obligations under the National Labor Relations Act in the representation context. Failure to post or distribute the notice may be grounds for setting aside an election if proper and timely objections are filed.

**Required Statement of Position:** In accordance with Section 102.63(b) of the Board's Rules, the employer is required to complete the enclosed Statement of Position form (including the attached Commerce Questionnaire), have it signed by an authorized representative, and file a completed copy (with all required attachments) with this office and serve it on all parties named in the petition such that it is received by them by **noon Pacific Time on June 19, 2015**. This form solicits information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. **This form may be e-Filed, but unlike other e-Filed documents, will *not* be timely if filed on the due date but after noon June 19, 2015.** If you have questions about this form or would like assistance in filling out this form, please contact the Board agent named above.

***List(s) of Employees:*** The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015).

***Failure to Supply Information:*** Failure to supply the information requested by this form may preclude you from litigating issues under Section 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party

Bellagio Hotel  
Case 28-RC-154081

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June 12, 2015

contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§ 102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

**Notice of Hearing:** Enclosed is a Notice of Representation Hearing to be conducted at 10:00 a.m. on Monday, June 22, 2015 at a Hearing Room, 300 Las Vegas Boulevard South, Suite 2-901, Las Vegas, NV 89101, if the parties do not voluntarily agree to an election. If a hearing is necessary, the hearing will run on consecutive days until concluded unless the regional director concludes that extraordinary circumstances warrant otherwise. Before the hearing begins, the NLRB will continue to explore potential areas of agreement with the parties in order to reach an election agreement and to eliminate or limit the costs associated with formal hearings.

Upon request of a party, the regional director may postpone the hearing for up to 2 business days upon a showing of special circumstances and for more than 2 business days upon a showing of extraordinary circumstances. A party desiring a postponement should make the request to the regional director in writing, set forth in detail the grounds for the request, and include the positions of the other parties regarding the postponement. E-Filing the request is preferred, but not required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

**Other Information Needed Now:** Please submit to this office, as soon as possible, the following information needed to handle this matter:

- (a) A copy of any existing or recently expired collective-bargaining agreements, and any amendments or extensions, or any recognition agreements covering any of your employees in the unit involved in the petition (the petitioned-for unit);
- (b) The name and contact information for any other labor organization (union) claiming to represent any of the employees in the petitioned-for unit;
- (c) If potential voters will need notices or ballots translated into a language other than English, the names of those languages and dialects, if any.

**Voter List:** If an election is held in this matter, the employer must transmit to this office and to the other parties to the election, an alphabetized list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal

Bellagio Hotel  
Case 28-RC-154081

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June 12, 2015

email addresses, and available home and personal cellular telephone numbers) of eligible voters. Usually, the list must be furnished within 2 business days of the issuance of the Decision and Direction of Election or approval of an election agreement. I am advising you of this requirement now, so that you will have ample time to prepare this list. When feasible, the list must be electronically filed with the Region and served electronically on the other parties. To guard against potential abuse, this list may not be used for purposes other than the representation proceeding, NLRB proceedings arising from it or other related matters.

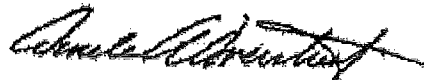
**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, [www.nlr.gov](http://www.nlr.gov), or at the Regional office upon your request.

If someone contacts you about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the NLRB. Their knowledge regarding this matter was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

**Procedures:** Also enclosed is a Description of Procedures in Certification and Decertification Cases (Form NLRB-4812). We strongly urge everyone to submit documents and other materials by E-Filing (not e-mailing) through our website, [www.nlr.gov](http://www.nlr.gov). E-Filing your documents places those documents in our official electronic case files. On all your correspondence regarding the petition, please include the case name and number indicated above.

Information about the NLRB and our customer service standards is available on our website, [www.nlr.gov](http://www.nlr.gov), or from an NLRB office upon your request. We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



Cornele A. Overstreet  
Regional Director

Enclosures: See next page.

Bellagio Hotel  
Case 28-RC-154081

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June 12, 2015

1. Petition
2. Notice of Petition for Election (Form 5492)
3. Notice of Representation Hearing
4. Description of Procedures in Certification and Decertification Cases (Form 4812)
5. Statement of Position form and Commerce Questionnaire (Form 505)

CAO/NAH/lg



FORM NLRB-502 (RC)  
(4-15)UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

## RC PETITION

DO NOT WRITE IN THIS SPACE

Case No.

28-RC-154081

Date Filed

06/12/2015

**INSTRUCTIONS:** Unless e-Filed using the Agency's website, [www.nlr.gov](http://www.nlr.gov), submit an original of this Petition to an NLRB office in the Region in which the employer concerned is located. The petition must be accompanied by both a showing of interest (see 6b below) and a certificate of service showing service on the employer and all other parties named in the petition of: (1) the petition; (2) Statement of Position form (Form NLRB-505); and (3) Description of Representation Case Procedures (Form NLRB 4812). The showing of interest should only be filed with the NLRB and should not be served on the employer or any other party.

**1. PURPOSE OF THIS PETITION: RC-CERTIFICATION OF REPRESENTATIVE** - A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees. The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.

2a. Name of Employer  
Bellagio Hotel2b. Address(es) of Establishment(s) involved (Street and number, city, State, ZIP code)  
3600 S. Las Vegas BLVD. Las Vegas, Nevada3a. Employer Representative - Name and Title  
Beth Foster Director of Human Resources3b. Address (if same as 2b - state same)  
same3c. Tel. No.  
702-693-8261

3d. Cell No.

3e. Fax No.

702-693-8579

3f. E-Mail Address

befoster@bellagioresort.com

4a. Type of Establishment (Factory, mine, wholesaler, etc.)  
Hotel and Casino4b. Principal product or service  
Gaming, Lodging, Entertainment5a. City and State where unit is located:  
Las Vegas, Nevada

5b. Description of Unit Involved

Included: All full time and part time Surveillance Techs at the Employers Facility

Excluded: All other employees including office, clerical, professional, guards, and supervisors as defined in the act.

6a. No. of Employees in Unit:

4

6b. Do a substantial number (30% or more) of the employees in the unit wish to be represented by the Petitioner? Yes ☒ No ☐

Check One:

☐

7a. Request for recognition as Bargaining Representative was made on (Date) \_\_\_\_\_ and Employer declined recognition on or about (Date) \_\_\_\_\_ (If no reply received, so state).

☐

7b. Petitioner is currently recognized as Bargaining Representative and desires certification under the Act.

8a. Name of Recognized or Certified Bargaining Agent (if none, so state).  
None8b. Address  
N/A8c. Tel. No.  
N/A8d. Cell No.  
N/A8e. Fax No.  
N/A8f. E-Mail Address  
N/A8g. Affiliation, if any  
N/A8h. Date of Recognition or Certification  
N/A8i. Expiration Date of Current or Most Recent Contract, if any (Month, Day, Year)  
N/A9. Is there now a strike or picketing at the Employer's establishment(s) involved? no. If so, approximately how many employees are participating? 0  
(Name of labor organization) N/A, has picketed the Employer since (Month, Day, Year) N/A10. Organizations or individuals other than Petitioner and those named in items 8 and 9, which have claimed recognition as representatives and other organizations and individuals known to have a representative interest in any employees in the unit described in item 5b above. (If none, so state)  
None

10a. Name

N/A

10b. Address

N/A

10c. Tel. No.

N/A

10d. Cell No.

N/A

10e. Fax No.

N/A

10f. E-Mail Address

N/A

11. Election Details: If the NLRB conducts an election in this matter, state your position with respect to any such election.

11a. Election Type: ☒ Manual ☐ Mail ☐ Mixed Manual/Mail11b. Election Date(s):  
6-22-1511c. Election Time(s):  
12am-3pm11d. Election Location(s):  
Training Room A12a. Full Name of Petitioner (including local name and number)  
International Union of Engineers Local 501, AFL-CIO12b. Address (street and number, city, state, and ZIP code)  
301 Deauville St Las Vegas, Nevada 8910812c. Full name of national or international labor organization of which Petitioner is an affiliate or constituent (if none, so state)  
International Union of Engineers Local 501, AFL-CIO12d. Tel. No.  
702-382-845212e. Cell No.  
702-622-084612f. Fax No.  
702-386-581312g. E-Mail Address  
jsoto@local501.org

13. Representative of the Petitioner who will accept service of all papers for purposes of the representation proceeding.

13a. Name and Title  
Jose Soto Director of Organizing13b. Address (street and number, city, state, and ZIP code)  
301 Deauville St Las Vegas, Nevada 8910813c. Tel. No.  
702-382-845213d. Cell No.  
702-622-084613e. Fax No.  
702-386-581313f. E-Mail Address  
jsoto@local501.org

I declare that I have read the above petition and that the statements are true to the best of my knowledge and belief.

Name (Print)  
Jose Soto

Signature

Title

Director of Organizing

Date

6-12-15

WILLFUL FALSE STATEMENTS ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

## PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

Form NLRB-5492  
(4-2015)



## National Labor Relations Board



# NOTICE OF PETITION FOR ELECTION

This notice is to inform employees that International Union of Engineers Local 501, AFL-CIO has filed a petition with the National Labor Relations Board (NLRB), a Federal agency, in Case 28-RC-154081 seeking an election to become certified as the representative of the employees of BELLAGIO HOTEL in the unit set forth below:

Included: All full time and part time Surveillance Techs at the Employers facility. Excluded: All other employees including office, clerical professional, guards, and supervisors as defined in the Act.

This notice also provides you with information about your basic rights under the National Labor Relations Act, the processing of the petition, and rules to keep NLRB elections fair and honest.

## YOU HAVE THE RIGHT under Federal Law

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively through representatives of your own choosing
- To act together for the purposes of collective bargaining or other mutual aid or protection
- To refuse to do any or all of these things unless the union and employer, in a state where such agreements are permitted, enter into a lawful union-security agreement requiring employees to pay periodic dues and initiation fees. Nonmembers who inform the union that they object to the use of their payments for nonrepresentational purposes may be required to pay only their share of the union's costs of representational activities (such as collective bargaining, contract administration, and grievance adjustments).

## PROCESSING THIS PETITION

Elections do not necessarily occur in all cases after a petition is filed. NO FINAL DECISIONS HAVE BEEN MADE YET regarding the appropriateness of the proposed unit or whether an election will be held in this matter. If appropriate, the NLRB will first see if the parties will enter into an election agreement that specifies the method, date, time, and location of an election and the unit of employees eligible to vote. If the parties do not enter into an election agreement, usually a hearing is held to receive evidence on the appropriateness of the unit and other issues in dispute. After a hearing, an election may be directed by the NLRB, if appropriate.

IF AN ELECTION IS HELD, it will be conducted by the NLRB by secret ballot and Notices of Election will be posted before the election giving complete details for voting.

## ELECTION RULES



Form NLRB-5492  
(4-2015)

The NLRB applies rules that are intended to keep its elections fair and honest and that result in a free choice. If agents of any party act in such a way as to interfere with your right to a free election, the election can be set aside by the NLRB. Where appropriate the NLRB provides other remedies, such as reinstatement for employees fired for exercising their rights, including backpay from the party responsible for their discharge.

The following are examples of conduct that interfere with employees' rights and may result in setting aside the election:

- Threatening loss of jobs or benefits by an employer or a union
- Promising or granting promotions, pay raises, or other benefits, to influence an employee's vote by a party capable of carrying out such promises
- An employer firing employees to discourage or encourage union activity or a union causing them to be fired to encourage union activity
- Making campaign speeches to assembled groups of employees on company time, where attendance is mandatory, within the 24-hour period before the polls for the election first open or the mail ballots are dispatched
- Incitement by either an employer or a union of racial or religious prejudice by inflammatory appeals
- Threatening physical force or violence to employees by a union or an employer to influence their votes

Please be assured that IF AN ELECTION IS HELD, every effort will be made to protect your right to a free choice under the law. Improper conduct will not be permitted. All parties are expected to cooperate fully with the NLRB in maintaining basic principles of a fair election as required by law. The NLRB as an agency of the United States Government does not endorse any choice in the election.

For additional information about the processing of petitions, go to [www.nlr.gov](http://www.nlr.gov) or contact the NLRB at (702)388-6416.

**THIS IS AN OFFICIAL GOVERNMENT NOTICE AND MUST NOT BE DEFACED BY ANYONE. IT MUST REMAIN POSTED WITH ALL PAGES SIMULTANEOUSLY VISIBLE UNTIL REPLACED BY THE NOTICE OF ELECTION OR THE PETITION IS DISMISSED OR WITHDRAWN.**



**National Labor Relations Board**



Page 2 of 2



UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 28



BELLAGIO HOTEL

Employer

and

Case 28-RC-154081

MGM MIRAGE HOTEL CASINO

Employer

and

Case 28-RC-154083

ARIA HOTEL

Employer

and

Case 28-RC-154093

MGM GRAND LAS VEGAS

Employer

and

Case 28-RC-154099

INTERNATIONAL UNION OF ENGINEERS  
LOCAL 501, AFL-CIO

Petitioner

NOTICE OF REPRESENTATION HEARINGS AND ORDER  
SETTING HEARINGS TO BE HELD SERIATIM

The Petitioner filed the attached petition pursuant to Section 9(c) of the National Labor Relations Act. It appears that a question affecting commerce exists as to whether the employees in the unit described in the petition wish to be represented by a collective-bargaining representative as defined in Section 9(a) of the Act. In order to effectuate the purposes of the Act, for administrative convenience, and to avoid unnecessary costs or delay, I HEREBY ORDER the hearings to be held seriatim, one case following the other.

YOU ARE HEREBY NOTIFIED that, pursuant to Sections 3(b) and 9(c) of the Act, at 10:00 a.m. on Monday, June 22, 2015 and on consecutive days thereafter until concluded, at the Hearing Room of the National Labor Relations Board offices located at, 300 Las Vegas Boulevard South, Suite 2-901, Las Vegas, NV 89101, hearings will be conducted before a hearing officer of the National Labor Relations Board. At the hearings, the parties will have the right to appear in person or otherwise, and give testimony.

**YOU ARE FURTHER NOTIFIED** that, pursuant to Section 102.63(b) of the Board's Rules and Regulations, the Employers must complete the Statement of Position and file it and all attachments with the Regional Director and serve it on the parties listed on the petition such that is received by them by no later than **noon Pacific time on June 19, 2015**. The Statement of Position may be E-Filed but, unlike other E-Filed documents, must be filed by noon Pacific on the due date in order to be timely. If an election agreement is signed by all parties and returned to the Regional Office before the due date of the Statement of Position, the Statement of Position is not required to be filed.

Dated: June 12, 2015



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Cornele A. Overstreet, Regional Director

FORM NLRB-4812  
(4-15)

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD

**DESCRIPTION OF REPRESENTATION CASE PROCEDURES  
IN CERTIFICATION AND DECERTIFICATION CASES**

The National Labor Relations Act grants employees the right to bargain collectively through representatives of their own choosing and to refrain from such activity. A party may file an RC, RD or RM petition with the National Labor Relations Board (NLRB) to conduct a secret ballot election to determine whether a representative will represent, or continue to represent, a unit of employees. An RC petition is generally filed by a union that desires to be certified as the bargaining representative. An RD petition is filed by employees who seek to remove the currently recognized union as the bargaining representative. An RM petition is filed by an employer who seeks an election because one or more individuals or unions have sought recognition as the bargaining representative, or based on a reasonable belief supported by objective considerations that the currently recognized union has lost its majority status. This form generally describes representation case procedures in RC, RD and RM cases, also referred to as certification and decertification cases.

**Right to be Represented** – Any party to a case with the NLRB has the right to be represented by an attorney or other representative in any proceeding before the NLRB. A party wishing to have a representative appear on its behalf should have the representative complete a Notice of Appearance (Form NLRB-4701), and E-File it at [www.nlr.gov](http://www.nlr.gov) or forward it to the NLRB Regional Office handling the petition as soon as possible.

**Filing and Service of Petition** – A party filing an RC, RD or RM petition is required to serve a copy of its petition on the parties named in the petition along with this form and the Statement of Position form. The petitioner files the petition with the NLRB, together with (1) a certificate showing service of these documents on the other parties named in the petition, and (2) a showing of interest to support the petition. The showing of interest is not served on the other parties.

**Notice of Hearing** – After a petition in a certification or decertification case is filed with the NLRB, the NLRB reviews both the petition and the required showing of interest for sufficiency, assigns the petition a case number, and promptly sends letters to the parties notifying them of the Board agent who will be handling the case. In most cases, the letters include a Notice of Representation Hearing. Except in cases presenting unusually complex issues, this pre-election hearing is set for a date 8 days (excluding intervening federal holidays) from the date of service of the notice of hearing. Once the hearing begins, it will continue day to day until completed absent extraordinary circumstances. The Notice of Representation Hearing also sets the due date for filing and serving the Statement(s) of Position. Included with the Notice of Representation Hearing are a copy of the petition, this form, a Statement of Position form, a Notice of Petition for Election, and a letter advising how to contact the Board agent who will be handling the case and discussing those documents.

**Hearing Postponement:** The regional director may postpone the hearing for up to 2 business days upon request of a party showing special circumstances and for more than 2 business days upon request of a party showing extraordinary circumstances. A party wishing to request a postponement should make the request in writing and set forth in detail the grounds for the request. The request should include the positions of the other parties regarding the postponement. The request should be filed with the regional director. E-Filing the request is preferred, but not required. A copy of the request must be served simultaneously on all the other parties, and that fact must be noted in the request.

**Statement of Position Form and List(s) of Employees** – The Statement of Position form solicits commerce and other information that will facilitate entry into election agreements or streamline the pre-election hearing if the parties are unable to enter into an election agreement. As part of its Statement of Position form, the employer also provides a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit. If the employer contends that the proposed unit is not appropriate, the employer must separately list the same information for all individuals that the employer contends must be added to the proposed unit to make it an appropriate unit, and must further indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department).

Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list

FORM NLRB-4812 (CONT.)  
(4-15)

must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015).

Ordinarily the Statement of Position must be filed with the Regional Office and served on the other parties such that it is received by them by noon on the business day before the opening of the hearing. The regional director may postpone the due date for filing and serving the Statement of Position for up to 2 business days upon request of a party showing special circumstances and for more than 2 business days upon request of a party showing extraordinary circumstances. The Statement of Position form may be E-Filed but, unlike other E-Filed documents, will not be timely if filed on the due date but after noon in the time zone of the Region where the petition is filed. Consequences for failing to satisfy the Statement of Position requirement are discussed on the following page under the heading "Preclusion."

A request to postpone the hearing will not automatically be treated as a request for an extension of the Statement of Position due date. If a party wishes to request both a postponement of the hearing and a postponement of the Statement of Position due date, the request must make that clear and must specify the reasons that postponements of both are sought.

**Posting and Distribution of Notice of Petition for Election** – Within 2 business days after service of the notice of hearing, the employer must post the Notice of Petition for Election in conspicuous places, including all places where notices to employees are customarily posted, and must also distribute it electronically if the employer customarily communicates with its employees electronically. The employer must maintain the posting until the petition is dismissed or withdrawn, or the Notice of Petition for Election is replaced by the Notice of Election. The employer's failure properly to post or distribute the Notice of Petition for Election may be grounds for setting aside the election if proper and timely objections are filed.

**Election Agreements** – Elections can occur either by agreement of the parties or by direction of the regional director or the Board. Three types of agreements are available: (1) a Consent Election Agreement (Form NLRB-651); (2) a Stipulated Election Agreement (Form NLRB-652); and (3) a Full Consent Agreement (Form NLRB-5509). In the Consent Election Agreement and the Stipulated Election Agreement, the parties agree on an appropriate unit and the method, date, time, and place of a secret ballot election that will be conducted by an NLRB agent. In the Consent Agreement, the parties also agree that post-election matters (election objections or determinative challenged ballots) will be resolved with finality by the regional director; whereas in the Stipulated Election Agreement, the parties agree that they may request Board review of the regional director's post-election determinations. A Full Consent Agreement provides that the regional director will make final determinations regarding all pre-election and post-election issues.

**Hearing Cancellation Based on Agreement of the Parties** – The issuance of the Notice of Representation Hearing does not mean that the matter cannot be resolved by agreement of the parties. On the contrary, the NLRB encourages prompt voluntary adjustments and the Board agent assigned to the case will work with the parties to enter into an election agreement, so the parties can avoid the time and expense of participating in a hearing.

**Hearing** – A hearing will be held unless the parties enter into an election agreement approved by the regional director or the petition is dismissed or withdrawn.

**Purpose of Hearing:** The purpose of a pre-election hearing is to determine if a question of representation exists. A question of representation exists if a proper petition has been filed concerning a unit appropriate for the purpose of collective bargaining or, in the case of a decertification petition, concerning a unit in which a labor organization has been certified or is being currently recognized by the employer as the bargaining representative. Disputes concerning individuals' eligibility to vote or inclusion in an appropriate unit ordinarily need not be litigated or resolved before an election is conducted.

**Issues at Hearing:** Issues that might be litigated at the pre-election hearing include: jurisdiction; labor organization status; bars to elections; unit appropriateness; expanding and contracting unit issues; inclusion of professional employees with nonprofessional employees; and eligibility formulas. At the hearing, the Statement of Position will be received into evidence and, prior to the introduction of further evidence, all other parties will respond on the record to each issue raised in the Statement. The hearing officer will not receive evidence concerning any issue as to which the parties have not taken adverse positions, except for evidence regarding the Board's jurisdiction over the employer and evidence concerning any issue, such as the appropriateness of the proposed unit, as to which the regional director determines that record evidence is necessary.



FORM NLRB-4812 (CONT.)  
(4-15)

**Preclusion:** At the hearing, a party will be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party will be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. As set forth in §102.66(d) of the Board's rules, if the employer fails to timely furnish the lists of employees, the employer will be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

**Conduct of Hearing:** If held, the hearing is usually open to the public and will be conducted by a hearing officer of the NLRB. Any party has the right to appear at any hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record evidence of the significant facts that support the party's contentions and are relevant to the existence of a question of representation. The hearing officer also has the power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses will be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Parties appearing at any hearing who have or whose witnesses have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.503, and who in order to participate in this hearing need appropriate auxiliary aids, as defined in 29 C.F.R. 100.503, should notify the regional director as soon as possible and request the necessary assistance.

**Official Record:** An official reporter will make the only official transcript of the proceedings and all citations in briefs or arguments must refer to the official record. (Copies of exhibits should be supplied to the hearing officer and other parties at the time the exhibit is offered in evidence.) All statements made in the hearing room will be recorded by the official reporter while the hearing is on the record. If a party wishes to make off-the-record remarks, requests to make such remarks should be directed to the hearing officer and not to the official reporter. After the close of the hearing, any request for corrections to the record, either by stipulation or motion, should be forwarded to the regional director.

**Motions and Objections:** All motions must be in writing unless stated orally on the record at the hearing and must briefly state the relief sought and the grounds for the motion. A copy of any motion must be served immediately on the other parties to the proceeding. Motions made during the hearing are filed with the hearing officer. All other motions are filed with the regional director, except that motions made after the transfer of the record to the Board are filed with the Board. If not E-Filed, an original and two copies of written motions shall be filed. Statements of reasons in support of motions or objections should be as concise as possible. Objections shall not be deemed waived by further participation in the hearing. On appropriate request, objections may be permitted to stand to an entire line of questioning. Automatic exceptions will be allowed to all adverse rulings.

**Election Details:** Prior to the close of the hearing the hearing officer will: (1) solicit the parties' positions (but will not permit litigation) on the type, date(s), time(s), and location(s) of the election and the eligibility period; (2) solicit the name, address, email address, facsimile number, and phone number of the employer's on-site representative to whom the regional director should transmit the Notice of Election if an election is directed; (3) inform the parties that the regional director will issue a decision as soon as practicable and will immediately transmit the document to the parties and their designated representatives by email, facsimile, or by overnight mail (if neither an email address nor facsimile number was provided); and (4) inform the parties of their obligations if the director directs an election and of the time for complying with those obligations.

**Oral Argument and Briefs:** Upon request, any party is entitled to a reasonable period at the close of the hearing for oral argument, which will be included in the official transcript of the hearing. At any time before the close of the hearing, any party may file a memorandum addressing relevant issues or points of law. Post-hearing briefs shall be filed only upon special permission of the regional director and within the

FORM NLRB-4812 (CONT.)  
(4-15)

time and addressing the subjects permitted by the regional director. If filed, copies of the memorandum or brief shall be served on all other parties to the proceeding and a statement of such service shall be filed with the memorandum or brief. No reply brief may be filed except upon special leave of the regional director. If allowed, briefs should be double-spaced on 8½ by 11 inch paper. Briefs must be filed in accordance with the provisions of Section 102.111(b) of the Board's Rules. E-Filing of briefs through the Board's website, [www.nlrb.gov](http://www.nlrb.gov), is encouraged, but not required. Facsimile transmission of briefs is NOT permitted.

**Regional Director Decision** - After the hearing, the regional director issues a decision directing an election, dismissing the petition or reopening the hearing. A request for review of the regional director's pre-election decision may be filed with the Board at any time after issuance of the decision until 14 days after a final disposition of the proceeding by the regional director. Accordingly, a party need not file a request for review before the election in order to preserve its right to contest that decision after the election. Instead, a party can wait to see whether the election results have mooted the basis of an appeal. The Board will grant a request for review only where compelling reasons exist therefore.

**Voter List** - The employer must provide to the regional director and the parties named in the election agreement or direction of election a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cellular ("cell") telephone numbers) of all eligible voters. (In construction industry elections, unless the parties stipulate to the contrary, also eligible to vote are all employees in the unit who either (1) were employed a total of 30 working days or more within the 12 months preceding the election eligibility date or (2) had some employment in the 12 months preceding the election eligibility date and were employed 45 working days or more within the 24 months immediately preceding the election eligibility date. However, employees meeting either of those criteria who were terminated for cause or who quit voluntarily prior to the completion of the last job for which they were employed, are not eligible.) The employer must also include in a separate section of the voter list the same information for those individuals whom the parties have agreed should be permitted to vote subject to challenge or those individuals who, according to the direction of election, will be permitted to vote subject to challenge.

The list of names must be alphabetized (overall or by department) and be in the same Microsoft Word file (or Microsoft Word compatible file) format as the initial lists provided with the Statement of Position form unless the parties agree to a different format or the employer certifies that it does not possess the capacity to produce the list in the required form. When feasible, the list must be filed electronically with the regional director and served electronically on the other parties named in the agreement or direction.

To be timely filed and served, the voter list must be received by the regional director and the parties named in the agreement or direction respectively within 2 business days after the approval of the agreement or issuance of the direction unless a longer time is specified in the agreement or direction. A certificate of service on all parties must be filed with the regional director when the voter list is filed. The employer's failure to file or serve the list within the specified time or in proper format shall be grounds for setting aside the election whenever proper and timely objections are filed. The parties shall not use the list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

**Waiver of Time to Use Voter List** - Under existing NLRB practice, an election is not ordinarily scheduled for a date earlier than 10 days after the date when the employer must file the voter list with the Regional Office. However, the parties entitled to receive the voter list may waive all or part of the 10-day period by executing Form NLRB-4483. A waiver will not be effective unless all parties who are entitled to the list agree to waive the same number of days.

**Election** - Information about the election, requirements to post and distribute the Notice of Election, and possible proceedings after the election is available from the Regional Office and will be provided to the parties when the Notice of Election is sent to the parties.

**Withdrawal or Dismissal** - If it is determined that the NLRB does not have jurisdiction or that other criteria for proceeding to an election are not met, the petitioner is offered an opportunity to withdraw the petition. If the petitioner does not withdraw the petition, the regional director will dismiss the petition and advise the petitioner of the reason for the dismissal and of the right to appeal to the Board.



**REVIEW THE FOLLOWING IMPORTANT INFORMATION  
BEFORE FILLING OUT A STATEMENT OF POSITION FORM**

**Completing and Filing this Form:** The Notice of Hearing indicates which parties are responsible for completing the form. If you are required to complete the form, you must have it signed by an authorized representative and file a completed copy (including all attachments) with the RD and serve copies on all parties named in the petition by the date and time established for its submission. If more space is needed for your answers, additional pages may be attached. If you have questions about this form or would like assistance in filling out this form, please contact the Board agent assigned to handle this case. **You may E-File your Statement of Position at [www.nlrb.gov](http://www.nlrb.gov), but unlike other e-Filed documents, it will *not* be timely if filed on the due date but after noon in the time zone of the Region where the petition was filed.**

*Note: Non-employer parties who complete this Statement of Position are NOT required to complete items 8f and 8g of the form, or to provide a commerce questionnaire or the lists described in item 7. In RM cases, the employer is NOT required to complete items 3, 5, 6, and 8a-8e of the form.*

**Required Lists:** The employer's Statement of Position must include a list of the full names, work locations, shifts, and job classifications of all individuals in the proposed unit as of the payroll period preceding the filing of the petition who remain employed at the time of filing. If the employer contends that the proposed unit is inappropriate, the employer must separately list the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit to make it an appropriate unit. The employer must also indicate those individuals, if any, whom it believes must be excluded from the proposed unit to make it an appropriate unit. These lists must be alphabetized (overall or by department). Unless the employer certifies that it does not possess the capacity to produce the lists in the required form, the lists must be in a table in a Microsoft Word file (.doc or .docx) or a file that is compatible with Microsoft Word, the first column of the table must begin with each employee's last name, and the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlrb.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlrb.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015).

**Consequences of Failure to Supply Information:** Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations. Section 102.66(d) provides as follows:

A party shall be precluded from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue that the party failed to raise in its timely Statement of Position or to place in dispute in response to another party's Statement of Position or response, except that no party shall be precluded from contesting or presenting evidence relevant to the Board's statutory jurisdiction to process the petition. Nor shall any party be precluded, on the grounds that a voter's eligibility or inclusion was not contested at the pre-election hearing, from challenging the eligibility of any voter during the election. If a party contends that the proposed unit is not appropriate in its Statement of Position but fails to specify the classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit, the party shall also be precluded from raising any issue as to the appropriateness of the unit, presenting any evidence relating to the appropriateness of the unit, cross-examining any witness concerning the appropriateness of the unit, and presenting argument concerning the appropriateness of the unit. If the employer fails to timely furnish the lists of employees described in §§102.63(b)(1)(iii), (b)(2)(iii), or (b)(3)(iii), the employer shall be precluded from contesting the appropriateness of the proposed unit at any time and from contesting the eligibility or inclusion of any individuals at the pre-election hearing, including by presenting evidence or argument, or by cross-examination of witnesses.

FORM NLRB-505  
(4-15)UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
STATEMENT OF POSITION

DO NOT WRITE IN THIS SPACE	
Case No. 28-RC-154081	Date Filed June 12, 2015

**INSTRUCTIONS:** Submit this Statement of Position to an NLRB Office in the Region in which the petition was filed and serve it and all attachments on each party named in the petition in this case such that it is received by them by the date and time specified in the notice of hearing.

Note: Non-employer parties who complete this form are NOT required to complete items 8f or 8g below or to provide a commerce questionnaire or the lists described in item 7. In RM cases, the employer is NOT required to respond to items 3, 5, 6, and 8a-8e below.

1a. Full name of party filing Statement of Position		1c. Business Phone:	1e. Fax No.:
1b. Address (Street and number, city, state, and ZIP code)		1d. Cell No.:	1f. e-Mail Address
2. Do you agree that the NLRB has jurisdiction over the Employer in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No (A completed commerce questionnaire (Attachment A) must be submitted by the Employer, regardless of whether jurisdiction is admitted)			
3. Do you agree that the proposed unit is appropriate? <input type="checkbox"/> Yes <input type="checkbox"/> No (If not, answer 3a and 3b.)			
a. State the basis for your contention that the proposed unit is not appropriate. (If you contend a classification should be excluded or included briefly explain why, such as shares a community of interest or are supervisors or guards.)			
b. State any classifications, locations, or other employee groupings that must be added to or excluded from the proposed unit to make it an appropriate unit. Added _____ Excluded _____			
4. Other than the individuals in classifications listed in 3b, list any individual(s) whose eligibility to vote you intend to contest at the pre-election hearing in this case and the basis for contesting their eligibility.			
5. Is there a bar to conducting an election in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, state the basis for your position.			
6. Describe all other issues you intend to raise at the pre-election hearing.			
The employer must provide the following lists which must be alphabetized (overall or by department) in the format specified at <a href="http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015">www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015</a> . A list containing the full names, work locations, shifts and job classification of all individuals in the proposed unit as of the payroll period immediately preceding the filing of the petition who remain employed as of the date of the filing of the petition. (Attachment B) If the employer contends that the proposed unit is inappropriate the employer must provide (1) a separate list containing the full names, work locations, shifts and job classifications of all individuals that it contends must be added to the proposed unit, if any to make it an appropriate unit. (Attachment C) and (2) a list containing the full names of any individuals it contends must be excluded from the proposed unit to make it an appropriate unit. (Attachment D)			
State your position with respect to the details of any election that may be conducted in this matter. 8a. Type: <input type="checkbox"/> Manual <input type="checkbox"/> Mail <input type="checkbox"/> Mixed Manual/Mail			
8b. Date(s)	8c. Time(s)	8d. Location(s)	
8e. Eligibility Period (e.g. special eligibility formula)	8f. Last Payroll Period Ending Date	8g. Length of payroll period <input type="checkbox"/> Weekly <input type="checkbox"/> Biweekly <input type="checkbox"/> Other (specify length)	
9. Representative who will accept service of all papers for purposes of the representation proceeding			
9a. Full name and title of authorized representative	9b. Signature of authorized representative		9c. Date
9d. Address (Street and number, city, state, and ZIP code)			9e. e-Mail Address
9f. Business Phone No.:	9g. Fax No.	9h. Cell No.	

WILLFUL FALSE STATEMENTS ON THIS STATEMENT OF POSITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. Code, Title 18, Section 1001)

## PRIVACY ACT STATEMENT

Collection of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. Section 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation proceedings. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (December 13, 2006). The NLRB will further explain these uses upon request. Failure to supply the information requested by this form may preclude you from litigating issues under 102.66(d) of the Board's Rules and Regulations and may cause the NLRB to refuse to further process a representation case or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

Revised 3/21/2011		NATIONAL LABOR RELATIONS BOARD	
QUESTIONNAIRE ON COMMERCE INFORMATION			
Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.			
CASE NAME Bellagio Hotel		CASE NUMBER 28-RC-154081	
1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)			
2. TYPE OF ENTITY			
<input type="checkbox"/> CORPORATION <input type="checkbox"/> LLC <input type="checkbox"/> LLP <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> SOLE PROPRIETORSHIP <input type="checkbox"/> OTHER (Specify)			
3. IF A CORPORATION OR LLC:			
A. STATE OF INCORPORATION OR FORMATION		B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES	
4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS			
5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR			
6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed)			
7. A. PRINCIPAL LOCATION		B. BRANCH LOCATIONS	
8. NUMBER OF PEOPLE PRESENTLY EMPLOYED			
A. Total:		B. At the address involved in this matter:	
9. DURING THE MOST RECENT (Check appropriate box): <input type="checkbox"/> CALENDAR YR. <input type="checkbox"/> 12 MONTHS <input type="checkbox"/> FISCAL YR. (FK dates)			
A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.		YES	NO
B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.			
C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount.			
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount.			
E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.			
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.			
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount.			
H. Gross Revenues from all sales or performance of services (Check the largest amount): <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input type="checkbox"/> \$1,000,000 or more   If less than \$100,000, indicate amount.			
I. Did you begin operations within the last 12 months? If yes, specify date:			
10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?			
<input type="checkbox"/> YES <input type="checkbox"/> NO (If yes, name and address of association or group).			
11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS:			
NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER
12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE			
NAME AND TITLE (Type or Print)	SIGNATURE	E-MAIL ADDRESS	DATE
<b>PRIVACY ACT STATEMENT</b> Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.			

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 28**

**BELLAGIO, LLC d/b/a BELLAGIO LAS VEGAS**

**Employer**

**and**

**Case 28-RC-154081**

**INTERNATIONAL UNION OF OPERATING  
ENGINEERS, LOCAL 501, AFL-CIO**

**Petitioner**

**ORDER DENYING EMPLOYER'S  
MOTION TO DISMISS PETITION**

On June 16, 2015, Bellagio, LLC d/b/a Bellagio Las Vegas (Employer) filed a Motion to Dismiss Petition (Employer's Motion) to dismiss the petition in this matter, which was filed by the International Union of Operating Engineers, Local 501, AFL-CIO (Union) on June 12, 2015. In its Motion, the Employer contends that the Union has failed to comply with the National Labor Relations Board's Rules and Regulations (Board's Rules and Regulations) by failing to demand recognition from the Employer prior to filing the instant petition. After consideration of the Employer's Motion, I find that there is no merit to the Employer's argument that the validity of the petition is contingent on the Union's demanding recognition prior to filing. For the reasons discussed below, the Employer's Motion is denied.

In its Motion, the Employer argues that the Union failed to request recognition before filing its petition, asserting that this is a requirement pursuant to Section 102.61(a)(8) of the Board's Rules and Regulations and Section 7(a) on Form NLRB-502(RC) (RC Petition). This argument is unsupported by the Board's Rules and Regulations.

EXHIBIT NO. B-1e RECEIVED X REJECTED \_\_\_\_\_  
CASE NO. 28-PC-154081 CASE NAME Bellagio  
NO. OF PAGES 3 DATE 6/23/15 REPORTED LR  
0142



Section 102.61(a), which addresses petitions for certifications, does not impose any condition requiring a petitioner to demand recognition from the Employer under Section 9(a) of the National Labor Relations Act (the Act) before filing a petition for certification. Similarly, Section 102.61(a)(8), which describes the contents that must accompany a petition for certification at the time of service, does not impose this demand for recognition requirement. Although the Employer asserts that the petitioner must demand recognition under these rules, Section 102.61(a)(8) simply does not support this argument. Rather, Section 102.61(a)(8) describes that the petition for certification form provides a section for the petitioner to note one of two scenarios; whether a request for recognition has been made and whether the employer declined to recognize the petitioner as a representative under Section 9(a) of the Act, or whether the petitioner is currently recognized but desires certification. There is nothing on the form stating that the request for recognition action is a condition for filing a valid petition.

For the reasons discussed above, the Employer's Motion has not established that the Union has failed to comply with its obligations. Accordingly,

**IT IS ORDERED** that the Employer's Motion to Dismiss Petition be, and the same is, denied.

Dated at Phoenix, Arizona, this 19<sup>th</sup> day of June 2015.

*/s/ Cornele A. Overstreet*

---

Cornele A. Overstreet, Regional Director





UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 28



**BELLAGIO, LLC d/b/a BELLAGIO LAS VEGAS**

**Employer**

**and**

**INTERNATIONAL UNION OF OPERATING  
ENGINEERS, LOCAL 501, AFL-CIO**

**Petitioner**

**Case 28-RC-154081**

**AFFIDAVIT OF SERVICE OF: ORDER DENYING EMPLOYER'S MOTION TO  
DISMISS PETITION dated June 19, 2015**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on June 19, 2015, I served the above documents by electronic mail upon the following persons, addressed to them at the following addresses:

Nathan T. H. Lloyd, General Counsel for  
Labor & Employment  
MGM Resorts, Inc.  
840 Grier Drive  
Las Vegas, NV 89119  
E-Mail: [nlloyd@mgmresorts.com](mailto:nlloyd@mgmresorts.com)

Gary C. Moss, Attorney at Law  
Jackson Lewis PC  
3800 Howard Hughes Parkway, Suite 600  
Las Vegas, NV 89169-5965  
E-Mail: [moss@g@jacksonlewis.com](mailto:moss@g@jacksonlewis.com)

International Union of Engineers  
Local 501, AFL-CIO  
301 Deauville Street  
Las Vegas, NV 89106-3998  
E-Mail: [jsoto@local501.org](mailto:jsoto@local501.org)

June 19, 2015

Date

Dawn M. Moore, Designated Agent of NLRB

Name

/s/ Dawn M. Moore

Signature

EXHIBIT NO. B-1A RECEIVED X REJECTED \_\_\_\_\_  
CASE NO. 28-RC154081 CASE NAME: Bellagio  
NO. OF PAGES: 2 DATE: 6/23/15 REPORTER: JB  
0145

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION TWENTY-EIGHT**

**Re: BELLAGIO, LLC d/b/a BELLAGIO LAS VEGAS  
Case 28-RC-154081**

**BOARD EXHIBIT FILE  
INDEX AND DESCRIPTION OF FORMAL DOCUMENTS**

Board Exhibit	1(a) Original Petition in Case 28-RC-154081 filed June 12, 2015.
	1(b) Notice of Representation Hearings and Order Setting Hearings to be held Seriatim, dated June 12, 2015.
	1(c) Affidavit of Service of 1(a) and 1(b), dated June 12, 2015.
	1(d) Employer's Motion to Dismiss the Petition, dated June 16, 2015.
	1(e) Order Denying Employer's Motion to Dismiss the Petition, dated June 19, 2015.
	1(f) Affidavit of Service of 1(e) dated June 19, 2015.
	1(g) Index and Description of Formal Documents.

**BD Exhibit 1(g)**

EXHIBIT NO. B-1g RECEIVED X REJECTED \_\_\_\_\_  
CASE NO. 28-RC-154081 CASE NAME: Bellagio  
NO. OF PAGES: 2 DATE: 6/23/15 REPORTER: X  
0147

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 28**

**BELLAGIO, LLC**

**Employer,**

**Case No. 28-RC-154081**

**and**

**INTERNATIONAL UNION OF  
OPERATING ENGINEERS LOCAL 501,**

**Petitioner.**

**EMPLOYER'S STATEMENT OF POSITION**

Pursuant to § 102.63(b) of the National Labor Relations Board Rules and Regulations, Bellagio, LLC ("The Employer" or "Bellagio"), improperly named "Bellagio Hotel", hereby submits its Statement of Position regarding the petition filed by the International Union of Operating Engineers Local 501 (the "Union") in the above-captioned matter. The Employer makes this Statement of Position based on its initial review of the relevant facts in the limited time permitted by the Rules. Bellagio reserves its right to amend or modify the positions stated herein. By submitting this Statement of Position, Bellagio does not waive its right to seek administrative or judicial review of the lawfulness of the NLRB's implementation on April 14, 2015 of its final rule on Representation Case Procedures (79 Fed. Reg. 74308).

Bb 58

EXHIBIT NO. B-2a RECEIVED Y REJECTED \_\_\_\_\_  
28-RC-154081  
CASE NO. \_\_\_\_\_ CASE NAME: Bellagio  
NO. OF PAGES: 2 DATE: 6/23/15 REPORTER: 16  
0149



**A. Information Requested in Questions 1(a) – 1(e) of NLRB Form 505**

Gary C. Moss  
Paul T. Trimmer  
Jackson Lewis P.C.  
3800 Howard Hughes Parkway  
Suite 600  
Las Vegas, Nevada 89169  
Tele: (702) 921-2460  
Fax: (702) 921-2461  
Cell: (702) 612-8683  
Email: [moss@g@jacksonlewis.com](mailto:moss@g@jacksonlewis.com)  
[trimmerp@jacksonlewis.com](mailto:trimmerp@jacksonlewis.com)

**B. Information Requested in Question 2 of NLRB Form 505**

The Employer agrees that the NLRB has jurisdiction over the Employer in this case. Attached as Exhibit A is the Employer's completed Commerce Questionnaire.

**C. Information Requested in Questions 3(a) – 3(b) of NLRB Form 505**

The Union has petitioned to represent "all full time and part time Surveillance Techs at the Employers Facility." The proposed unit is inappropriate for two reasons.

First, the petitioned for Surveillance Technicians are "confidential" employees. See *NLRB v. Hendricks County Rural Elec.*, 454 U.S. 170 (1981). They act in a confidential capacity to persons who exercise managerial functions in the field of labor relations. Among other things, they are directly and inextricably involved in the Company's efforts to investigate potential employee misconduct and adjust grievances related to such matters. *Id.* at 191. They are therefore not "employees" within the meaning of the Act and cannot be members of a bargaining unit represented by the Union. *Id.*

Second, Section 9(b)(3) of the Act provides in relevant part that:

the Board shall not ... (3) decide that any unit is appropriate for such purposes if it includes, together with other employees, any individual employed as a guard to enforce against employees and other persons rules to protect property of the employer or to protect

(W)

EXHIBIT NO. B-26 RECEIVED Y REJECTED \_\_\_\_\_  
CASE NO. 28-RC-154081 CASE NAME: Bellegio  
NO. OF PAGES: 2 DATE: 6/23/15 REPORTER: JB

0151

the safety of persons on the employer's premises; but no labor organization shall be certified as the representative of employees in a bargaining unit of guards if such organization admits to membership, or is affiliated directly or indirectly with an organization which admits to membership, employees other than guards.

29 U.S.C. § 159(b)(3).

It is the Employer's position that the "Surveillance Techs" identified in the petition are guards within the meaning of the Act because they are employed to protect both its property and the safety of persons on its premises. Because the Union represents and admits to its membership "employees other than guards," the proposed unit is inappropriate.

To the extent that the Regional Director rejected both the Employer's contention that the petitioned for Surveillance Technicians are confidential employees under the Act and the Employer's contention that the petitioned for employees are guards within the meaning of Section 9(b)(3) of the Act, the proposed unit would be appropriate. See Exhibit B for a list of employees who would be included in such a unit.

**D. Information Requested in Question 4 of NLRB Form 505**

Except as set forth in this Statement of Position, the Employer does not contest the composition of the proposed unit.

**E. Information Requested in Question 5 of NLRB Form 505**

There is no election or contract bar which would prevent the NLRB from conducting an election in the proposed unit. The election is barred, however, by Section 9(b)(3) of the Act because the Act prohibits the Board from certifying the Union as the representative of the petitioned for unit..

MS

EXHIBIT NO. B-2C RECEIVED X REJECTED \_\_\_\_\_  
28-RC-154081  
CASE NO. \_\_\_\_\_ CASE NAME: Bellagio  
NO. OF PAGES: 2 DATE: 6/23/15 REPORTER: JG  
0153

**F. Information Requested in Question 6 of NLRB Form 505**

The Employer will raise the issue presented in its June 16, 2015 Motion to Dismiss the petition. Specifically, the Union's petition does not satisfy the mandatory obligations in Section 102.61(a). It is invalid and must be dismissed.

The Employer will seek a full and complete record on all issues raised in paragraphs "A" through "E" above, so that the the Regional Director may render a decision on all issues prior to the conducting of any election, and allow for review by the NLRB and the courts. The Employer will contend any restriction on developing a full record or deferring the issues cited herein to post-election proceedings is, *inter alia*, a denial of due process.

Finally, the Employer will raise the issue of what is a practical date on which to conduct the election consistent with the Board's rules. The date proposed in the Petition was June 22, 2015. That is inappropriate. As established by the Regional Director's June 12, 2015 Notice of Hearing, the date proposed by the Union is the same date scheduled for the Representation Hearing. The Employer contends that the election should be conducted on or about July 6, 2015.

**G. Information Requested in Question 7 of NLRB Form 505**

Contrary to the number identified on the petition, there are three employees currently in the unit petitioned for. *See* Exhibit B.

**H. Information Requested in Questions 8(a) – 8(g) of NLRB Form 505**

The election should be conducted by manual secret ballot vote.

The election should be conducted on or about July 8, 2015 because Wednesdays and Thursdays are when most employees are scheduled to work, and because a number of employees are on PTO prior to that date. The polls should be open from 12:00 p.m. to 3:00 p.m. This will allow eligible voters sufficient time to vote while on duty or after their respective shift ends.

EXHIBIT NO. B-2d RECEIVED X REJECTED \_\_\_\_\_  
CASE NO. 28-RC-154081 CASE NAME: Bullegio  
NO. OF PAGES: 2 DATE: 6/23/15 REPORTER: JB  
0155



The election should be held at the Employer's premises in Training Room A.

In the event that the Regional Director issues a Decision and Direction of Election, "all full time and part time Surveillance Techs at the Employers Facility" excluding "all other employees" employed at the concluding day of the Employer's payroll period ending prior to the Regional Director's decision should be eligible to vote.

**I. Information Requested in Questions 9(a) – 9(h) of NLRB Form 505**

The Employer shall be represented for the purposes of the representation proceeding and for the service of papers by

Gary C. Moss  
Paul T. Trimmer  
Jackson Lewis P.C.  
3800 Howard Hughes Parkway  
Suite 600  
Las Vegas, Nevada 89169  
Tele: (702) 921-2460  
Fax: (702) 921-2461  
Email: [mossge@jacksonlewis.com](mailto:mossge@jacksonlewis.com)  
[trimmerp@jacksonlewis.com](mailto:trimmerp@jacksonlewis.com)

Dated this 19th day of June, 2015.

Respectfully submitted,

JACKSON LEWIS P.C.

By: 

Gary C. Moss  
Paul T. Trimmer  
3800 Howard Hughes Parkway, Suite 600  
Las Vegas, Nevada 89169  
(702) 921-2460  
*Counsel for the Employer*

EXHIBIT NO. B-7c RECEIVED Y REJECTED \_\_\_\_\_  
28. RC-154081  
CASE NO. \_\_\_\_\_ CASE NAME: Bellagio  
NO. OF PAGES: 2 DATE: 4/23/15 REPORTER: JE 0157

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 28**

**BELLAGIO, LLC**

**Employer,**

**Case No. 28-RC-154081**

**and**

**INTERNATIONAL UNION OF  
OPERATING ENGINEERS LOCAL 501,**

**Petitioner.**

**CERTIFICATE OF SERVICE**

In addition to filing this Statement of Position via the NLRB's electronic filing system, we hereby certify that copies have been served this 19th day of June, 2015, by email upon:

Mr. Cornele A. Overstreet  
Regional Director  
National Labor Relations Board  
Region 28  
2600 N. Central Avenue, Suite 1400  
Phoenix, Arizona 85004-3019  
Email: cornele.overstreet@nlrb.gov

Nathan Higley  
Field Attorney  
300 Las Vegas Blvd, South, Suite 2-901  
Las Vegas, NV 89101  
nathan.higley@nlrb.gov

Jose Soto  
301 Deauville St.  
Las Vegas, NV 89106  
jsoto@local501.org

/s/ Paul T. Trimmer  
Paul T. Trimmer

1725


EXHIBIT NO. B-2f RECEIVED Y REJECTED \_\_\_\_\_  
CASE NO. 28-RC-154081 CASE NAME Bellagio  
NO. OF PAGES: 2 DATE: 6/23/15 REPORTER: VB  
0189

# EXHIBIT A

625

EXHIBIT NO. B-29 RECEIVED Y REJECTED \_\_\_\_\_  
CASE NO. 28. PC-154081 CASE NAME: Bellegio  
NO. OF PAGES: 2 DATE: 6/23/15 REPORTER: 16 0161



INTERNET FORM NLRB-0081 (2-08)		NATIONAL LABOR RELATIONS BOARD <b>QUESTIONNAIRE ON COMMERCE INFORMATION</b>		FORM EXEMPT UNDER 44 U.S.C. 3512																	
Please read carefully. Answer all applicable items and return to the Regional Office. If additional space is required, use plain bond paper and identify item number.																					
CASE NAME Bellagio, LLC				CASE NUMBER 28-RC-154081																	
1. TYPE OF BUSINESS <input checked="" type="checkbox"/> CORPORATION <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> SOLE PROPRIETORSHIP																					
2. CLASSIFICATION WHICH DESCRIBES YOUR BUSINESS <table border="0"> <tr> <td><input type="checkbox"/> WHOLESALE</td> <td><input type="checkbox"/> NEWSPAPER</td> <td><input type="checkbox"/> OFFICE OF INDUSTRIAL BUILDING</td> <td><input checked="" type="checkbox"/> RETAIL</td> </tr> <tr> <td><input type="checkbox"/> HOSPITAL</td> <td><input checked="" type="checkbox"/> HOTEL - MOTEL</td> <td><input type="checkbox"/> MANUFACTURING/PROCESSING</td> <td><input type="checkbox"/> SERVICE ORGANIZATION</td> </tr> <tr> <td><input type="checkbox"/> TRUCKING</td> <td><input type="checkbox"/> PUBLIC UTILITY</td> <td><input type="checkbox"/> BROADCASTING STATION</td> <td><input type="checkbox"/> NURSING HOME</td> </tr> <tr> <td><input type="checkbox"/> TRANSIT SYSTEM</td> <td><input type="checkbox"/> BUILDING AND CONSTRUCTION</td> <td><input checked="" type="checkbox"/> OTHER (Describe)</td> <td></td> </tr> </table>						<input type="checkbox"/> WHOLESALE	<input type="checkbox"/> NEWSPAPER	<input type="checkbox"/> OFFICE OF INDUSTRIAL BUILDING	<input checked="" type="checkbox"/> RETAIL	<input type="checkbox"/> HOSPITAL	<input checked="" type="checkbox"/> HOTEL - MOTEL	<input type="checkbox"/> MANUFACTURING/PROCESSING	<input type="checkbox"/> SERVICE ORGANIZATION	<input type="checkbox"/> TRUCKING	<input type="checkbox"/> PUBLIC UTILITY	<input type="checkbox"/> BROADCASTING STATION	<input type="checkbox"/> NURSING HOME	<input type="checkbox"/> TRANSIT SYSTEM	<input type="checkbox"/> BUILDING AND CONSTRUCTION	<input checked="" type="checkbox"/> OTHER (Describe)	
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<input type="checkbox"/> TRANSIT SYSTEM	<input type="checkbox"/> BUILDING AND CONSTRUCTION	<input checked="" type="checkbox"/> OTHER (Describe)																			
3. EXACT LEGAL TITLE OF FIRM Bellagio, LLC																					
4. IF A CORPORATION <table border="0"> <tr> <td>A. INCORPORATED IN STATE OF: NV</td> <td>B. NAME(S) AND ADDRESS(ES) OF PARENT, SUBSIDIARY, OR RELATED CORPORATION, IF ANY, AND DESCRIBE RELATIONSHIP. MGM Resorts International</td> </tr> </table>						A. INCORPORATED IN STATE OF: NV	B. NAME(S) AND ADDRESS(ES) OF PARENT, SUBSIDIARY, OR RELATED CORPORATION, IF ANY, AND DESCRIBE RELATIONSHIP. MGM Resorts International														
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5. IF A PARTNERSHIP FULL NAME AND COMPLETE ADDRESS OF ALL PARTNERS. Casino, Hotel, Convention/Meeting Space, Restaurants, Entertainment, Retail, and other Amusement																					
6. IF A PROPRIETORSHIP FULL NAME AND COMPLETE ADDRESS OF PROPRIETOR.																					
7. BRIEFLY DESCRIBE THE NATURE OF YOUR BUSINESS (General products handled or manufactured, or nature of services performed).																					
8. PRINCIPAL PLACE OF BUSINESS LOCATED AT: 3600 Las Vegas Blvd. So.				BRANCH(ES) LOCATED AT:																	
9. NUMBER OF PERSONNEL PRESENTLY EMPLOYED BY YOUR FIRM <table border="0"> <tr> <td>A. TOTAL ~5,000</td> <td>B. AT THE ADDRESS INVOLVED IN THIS PROCEEDING.</td> </tr> </table>						A. TOTAL ~5,000	B. AT THE ADDRESS INVOLVED IN THIS PROCEEDING.														
A. TOTAL ~5,000	B. AT THE ADDRESS INVOLVED IN THIS PROCEEDING.																				
10. DURING THE PAST <input checked="" type="checkbox"/> CALENDAR, <input type="checkbox"/> FISCAL YEAR (If Fiscal Year indicate dates) OR <input type="checkbox"/> LAST 12 MONTHS (Check appropriate box):																					
A. DID GROSS REVENUE FROM SALES OR PERFORMANCE OF SERVICES DIRECTLY TO CUSTOMERS OUTSIDE THE STATE EXCEED \$50,000 <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF LESS THAN \$50,000 INDICATE AMOUNT \$																					
B. DID GROSS AMOUNT OF PURCHASES OF MATERIALS OR SERVICES DIRECTLY FROM OUTSIDE THE STATE EXCEED \$50,000 <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF LESS THAN \$50,000 INDICATE AMOUNT \$																					
C. DID GROSS REVENUE FROM YOUR SALES OR PERFORMANCE OF SERVICES EQUAL OR EXCEED \$50,000 TO FIRMS WHICH DIRECTLY MADE SALES TO CUSTOMERS OUTSIDE THE STATE AND/OR TO CUSTOMERS WHICH MADE PURCHASES FROM DIRECTLY OUTSIDE THE STATE <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF LESS THAN \$50,000 INDICATE AMOUNT \$																					
D. IF THE ANSWER TO 10(a) IS NO, DID GROSS REVENUE FROM SALES OR PERFORMANCE OF SERVICES EQUAL OR EXCEED \$50,000 TO PUBLIC UTILITIES, TRANSIT SYSTEMS, NEWSPAPERS, HEALTH CARE INSTITUTIONS, BROADCASTING STATIONS, COMMERCIAL BUILDINGS, EDUCATIONAL INSTITUTIONS AND/OR RETAIL CONCERNS <input type="checkbox"/> YES <input type="checkbox"/> NO IF LESS THAN \$50,000 INDICATE AMOUNT \$																					
E. DID GROSS AMOUNT OF YOUR PURCHASES EQUAL OR EXCEED \$50,000 FROM FIRMS WHICH IN TURN, PURCHASED THOSE GOODS DIRECTLY FROM OUTSIDE THE STATE <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF LESS THAN \$50,000 INDICATE AMOUNT \$																					
F. GROSS REVENUE FROM ALL SALES OR PERFORMANCE OF SERVICES (Check largest amount which firm equaled or exceeded): <table border="0"> <tr> <td><input type="checkbox"/> \$100,000</td> <td><input type="checkbox"/> \$200,000</td> <td><input type="checkbox"/> \$250,000</td> <td><input type="checkbox"/> \$500,000</td> <td><input checked="" type="checkbox"/> \$1,000,000</td> <td>IF LESS THAN \$100,000 INDICATE AMOUNT \$</td> </tr> </table>						<input type="checkbox"/> \$100,000	<input type="checkbox"/> \$200,000	<input type="checkbox"/> \$250,000	<input type="checkbox"/> \$500,000	<input checked="" type="checkbox"/> \$1,000,000	IF LESS THAN \$100,000 INDICATE AMOUNT \$										
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11. ARE YOU A MEMBER OF, OR PARTICIPATE IN, AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO (If yes, give Name and Address of association or group). Multiple																					
12. DID FIRM PERFORM NATIONAL DEFENSE WORK DURING THE PERIOD INDICATED IN 10 ABOVE? (If Yes, amount of dollar volume and name(s) and address(es) for whom work was performed). <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO \$																					
13. PROVIDE NAME & TITLE OF YOUR REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION CONCERNING THE OPERATIONS OF YOUR BUSINESS																					
NAME Mike Casey		TITLE VP Finance		TELEPHONE NUMBER (702) 693-8267																	
SIGNATURE OR AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE																					
NAME AND TITLE (Type or Print) Mike Casey, VP Finance		SIGNATURE 		DATE 6/19/2015																	

**PRIVACY ACT STATEMENT**

Submission of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 161 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

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EXHIBIT NO. B-2h RECEIVED ☒ REJECTED ☐  
28. RC-154081  
CASE NO.                      CASE NAME: Bullagid  
NO. OF PAGES: 2 DATE: 4/23/15 REPORTER: X 0163

# EXHIBIT B

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EXHIBIT NO. B-2 RECEIVED ✓ REJECTED \_\_\_\_\_  
28-PC-191081  
CASE NO. \_\_\_\_\_ CASE NAME: Bellagio  
NO. OF PAGES: 2 DATE: 6/27/15 REPORTER: AB  
0165

**Bellagio****NLRB Case No. 28-RC-154081****VOTER LIST**

<b>Full Employee Name (Last, First)</b>	<b>Work Location</b>	<b>Shift</b>	<b>Job Classification</b>
1. Becirovic, Alija	Bellagio	Day 6am - 2pm	Tech Surveillance
2. Brandt, Joseph	Bellagio	Day 6am - 2pm	Tech Surveillance
3. Rzendzian, Ronald	Bellagio	Day 3am-1pm	Tech Surveillance

125

EXHIBIT NO. B-2 RECEIVED ☒ REJECTED ☐  
CASE NO. 28-PC-154081 CASE NAME: Belaghi  
NO. OF PAGES: 2 DATE: 6/23/15 0167

## **SURVEILLANCE STANDARDS FOR NONRESTRICTED LICENSEES**

It is the responsibility of each licensee to ensure that its surveillance system is used to accomplish the stated purpose under Nevada Gaming Commission Regulation 5.160(2), and is not used in an improper manner which would bring discredit to the industry.

### **1.010 Definitions.** As used in these standards, the following definitions apply:

1. "Casino surveillance" means the capability to observe and record activities being conducted in a licensed gaming establishment.
2. "Dedicated camera" means a video camera required by these standards to continuously record a specific activity. In lieu of continuous recording, time-lapse recording is acceptable if approved, in advance, by the gaming control board chairman or his designee.
3. "Motion activated dedicated camera" means a video camera which, upon its detection of activity or motion in a specific area, begins to record the activity or area.
4. "PTZ camera" means a video camera which possesses, at a minimum, pan, tilt and zoom capabilities or features comparable thereto.
5. "Slot change booth" means a structure on the floor of a licensed gaming establishment which houses a coin counting device utilized to redeem coins from patrons. The term does not include slot machine change carousels, floor banks or change banks.
6. "Surveillance room" means a secure location(s) in a licensed gaming establishment used primarily for casino surveillance.
7. "Surveillance system" means a system of video cameras, monitors, recorders, video printers, switches, selectors and other ancillary equipment used for casino surveillance.
8. "Satellite surveillance equipment" means surveillance monitors, recorders, remote selectors and other ancillary equipment located in an area other than the surveillance room and used for casino surveillance.

### **1.020 License categories.** For purposes of these standards, licensees are categorized as follows based on annual gross gaming revenue during the preceding calendar year:

- Category A—\$40 million or more.
- Category B—\$15 million or more, but less than \$40 million.
- Category C—\$3 million or more, but less than \$15 million.
- Category D—Less than \$3 million.

If a licensee did not operate for a full year during the preceding calendar year, the partial year's revenue must be projected over the course of a full year to determine the appropriate license category.

### **2.010 Surveillance equipment.**

1. The surveillance system for all category "A" and "B" licensees shall be maintained and operated from a surveillance room.
2. The surveillance system for all category "C" and "D" licensees shall be maintained and operated from a secure location.
3. The entrance to the surveillance room or secured location must be located so that it is not readily accessible by either casino employees who work primarily on the casino floor or the general public.
4. Access to a surveillance room must be limited to surveillance personnel, key employees and other personnel authorized in accordance with the licensee's policy as set forth in its written surveillance system plan. Immediately upon request and presentation of proper identification presented to any authorized person, any agent of the board must be provided access.
5. Surveillance room equipment must have total override capability over all other satellite surveillance equipment located outside the surveillance room.
6. For all category "A" licensees, in the event of power loss to the surveillance system, an auxiliary or backup power source must be available and capable of providing immediate restoration of power to all elements of the surveillance system that enable surveillance personnel to observe the table games remaining open for play and all areas covered by dedicated cameras.
7. The surveillance system must include date and time generators which possess the capability to display the date and time of recorded events on video tape recordings. The displayed date and time must not significantly obstruct the recorded view.
8. For all category "A" and "B" licensees, the surveillance room must be attended at all times by personnel trained in the use of the equipment, knowledge of the games and house rules. When necessary, surveillance rooms may be unattended for periods of time not to exceed 1 hour in any 8-hour period to allow appropriate meal and rest breaks.





9. For all category "C" and "D" licensees, there must be at least one person on the property at all times with a working knowledge and the ability to operate the surveillance equipment, and who can provide immediate access to the secured location to board agents.

10. Each video camera required by these standards must be installed in a manner that will prevent it from being readily obstructed, tampered with or disabled by patrons or employees.

11. Employees shall not intentionally obstruct surveillance system equipment.

12. Where a PTZ camera is used to observe gaming and gaming-related activities, the camera must be placed behind a smoked dome, one-way mirror or similar materials that conceal the camera from view.

13. Each video camera required by these standards must possess the capability of having its picture displayed on a video monitor and recorded. The surveillance system must include sufficient numbers of monitors and recorders to simultaneously display and record multiple gaming and count room activities, and record the views of all dedicated cameras and motion activated dedicated cameras.

14. Reasonable effort must be made to repair each malfunction of surveillance system equipment required by these standards within seventy-two (72) hours after the malfunction is discovered. If a malfunction is not repaired within 7 days after it is discovered causing the licensee to be in non-compliance with these standards, the licensee must immediately notify the enforcement division via facsimile of the malfunction.

15. In the event of a dedicated camera malfunction, the licensee must immediately provide alternative camera coverage or other security measures, such as additional supervisory or security personnel, to protect the subject activity. If other security measures are taken, the licensee must immediately contact the enforcement division who will determine whether the other security measures are adequate.

#### **STANDARD 1**

##### **REQUIRED SURVEILLANCE COVERAGE: SLOT MACHINES**

1. Each slot machine offering a payout of more than \$250,000 must be monitored by dedicated camera(s) to provide coverage of: (a) all patrons and employees at the slot machine, and (b) the face of the slot machine, with sufficient clarity to identify the payout line(s) of the machines. This requirement does not apply to any slot machine offering a payout of less \$3,000,000 and monitored by a linked, on-line progressive computer system which has been approved by the board chairman.

2. The surveillance system of all category "A" and "B" licensees must possess the capability to monitor and record a general overview of the activities occurring in each slot change booth.

#### **STANDARD 2**

##### **REQUIRED SURVEILLANCE COVERAGE: TABLE GAMES**

1. The surveillance system of all licensees operating three (3) or more table games must possess the capability to monitor and record:

(a) Each table game area, with sufficient clarity to identify patrons and dealers; and

(b) Each table game surface, with sufficient coverage and clarity to simultaneously view the table bank and determine the configuration of wagers, card values and game outcome.

2. Each progressive table game with a potential progressive jackpot of \$25,000 or more must be recorded and monitored by dedicated cameras that provide coverage of:

(a) The table surface, sufficient that the card values and card suits can be clearly identified; and

(b) An overall view of the entire table with sufficient clarity to identify patrons and dealer.

(c) A view of the progressive meter jackpot amount. If several tables are linked to the same progressive jackpot meter, only one meter need be recorded.

#### **STANDARD 3**

##### **REQUIRED SURVEILLANCE COVERAGE: CARD GAMES**

The surveillance system of category "A," "B," and "C" licensees must possess the capability to monitor and record each card game area, with sufficient coverage to view patrons, dealers, and activities on the card table surfaces.

**STANDARD 4****REQUIRED SURVEILLANCE COVERAGE: KENO AND BINGO**

1. The surveillance system of category "A," "B," and "C" licensees must possess the capability to monitor the keno and bingo ball drawing device or random number generator, which must be recorded during the course of the draw by a dedicated camera or automatically activated camera, with sufficient clarity to identify the balls drawn or numbers selected.
2. The surveillance system of category "A," "B," and "C" licensees must possess the capability to monitor and record general activities in each keno game area, with sufficient clarity to identify the employees performing the different functions.
3. The surveillance system in the bingo area of all licensees must possess the capability to monitor and record the game board and the activities of the employees responsible for drawing, calling and entering the balls drawn or numbers selected.

**STANDARD 5****REQUIRED SURVEILLANCE COVERAGE: RACE BOOKS,  
SPORTS POOLS AND PARI-MUTUEL BOOKS**

The surveillance system of category "A," "B," and "C" licensees must possess the capability to monitor and record general activities in each race book, sports pool and pari-mutuel book ticket writer and cashier area, with sufficient clarity to identify the employees performing the different functions.

**STANDARD 6****REQUIRED SURVEILLANCE COVERAGE: CASINO CAGE  
AND VAULT**

1. The surveillance system of category "A," "B," and "C" licensees must possess the capability to monitor and record a general overview of activities occurring in each casino cage and vault area, with sufficient clarity to identify employees within the cage and patrons and employees at the counter areas.
2. The casino cage or vault area in which fills and credits are transacted must be monitored by a dedicated camera or motion-activated dedicated camera that provides coverage with sufficient clarity to identify chip values and the amounts on the fill and credit slips. Controls provided by a computerized fill and credit system will be deemed an adequate alternative to viewing the fill and credit slips.

**STANDARD 7****REQUIRED SURVEILLANCE COVERAGE: COUNT ROOMS**

1. The surveillance system of category "A," "B," and "C" licensees must possess the capability to monitor and record all areas where coin may be stored or counted, including the hard count room, all doors to the hard count room, all scales and wrapping machines and all areas where uncounted coin may be stored during the drop and count process.
  - (a) Coverage of scales must be sufficiently clear to view any attempted manipulation of the recorded data.
  - (b) The table games drop box storage rack or area must be monitored by either a dedicated camera or a motion-detector activated camera.
2. The surveillance system of category "A," "B," and "C" licensees must possess the capability to monitor and record the soft count room, including all doors to the room, all drop boxes, safes, and counting surfaces, and all count team personnel. The counting surface area must be continuously monitored by a dedicated camera during the soft count.

For count rooms utilizing currency counters and currency sorters, the surveillance system must possess the capability to monitor and record all areas where currency is sorted, stacked, counted, verified or stored during the count process. Coverage of the currency counting machines and currency sorting machines must be sufficiently clear to view the currency input, output and reject areas.

**STANDARD 8****REQUIRED SURVEILLANCE COVERAGE: SECURITY OFFICES**

The casino surveillance system of category "A," "B," and "C" licensees must possess the capability to monitor and record, in both audio and video, the area of any security office or other room in which persons may be detained by casino security personnel. A notice must be posted in the security office or other room advising all persons that the area is under video and audio surveillance. When a person is detained by casino security personnel in the casino security office, the detention and any questioning, must be recorded. A person is considered to be detained when the person has been detained by casino security personnel and confined in the casino security office in such a manner as to deprive him of the ability to leave voluntarily.

**STANDARD 9****RECORDS**

1. All video recordings of coverage provided by the dedicated cameras or motion-activated dedicated cameras required by these standards must be retained for a minimum of 7 days, except for recordings of detentions and questioning by security personnel, which must be retained for a minimum of thirty (30) days. All other recordings must be retained a minimum of 3 days.

2. Each licensee must include in its written surveillance system plan and comply with a procedure for the storage and identification of all video recordings it is required to retain.

3. The video recording of a recorded event must be provided to a board agent upon his request. At the request and expense of the licensee, a copy of the event will be provided to the licensee by the board.

4. Category "A" and "B" licensees must have the capability to produce a still copy or photograph of the images depicted on a video recording, which must be provided to a board agent upon request. This may be accomplished using a video printer, still camera or other available means.

5. Each licensee must maintain a log that documents each malfunction and repair of the surveillance system (as defined in this standard). The log must state the time, date and nature of each malfunction, the efforts expended to repair the malfunction and the date of each effort, the reasons for any delays in repairing the malfunction, the date the malfunction is repaired and where applicable, any alternative security measures that were taken. The log should also reference, by date and time, any communication with the board concerning any malfunction or corrective action. The log must be retained for a minimum of 1 year after the date of the last entry in it.

**STANDARD 10****REQUIRED SURVEILLANCE COVERAGE: GAMING SALONS**

1. Each slot machine located within a gaming salon shall be monitored simultaneously and on a continuous basis by dedicated video cameras with enough resolution to readily identify the reel strip symbols, card values, or any other machine indication used to determine game outcome or malfunction.

2. Each table game offered within a gaming salon must be monitored by dedicated cameras that provide coverage of:

- (a) The table surface, sufficient that the card values and suits can be clearly identified;
- (b) An overall view of the entire table with sufficient clarity to identify patrons and dealers; and
- (c) A separate, dedicated camera positioned to view the playing surface, including chips and currency inserted into the drop box opening, and the number and denominations of all chips and lammer buttons in the chip tray, and any additions or removals of chips or lammers to or from the chip tray.

3. The entire area within a gaming salon, including all ante rooms, with the exception of rest rooms, shall be monitored by dedicated video cameras.

4. A dedicated video camera shall monitor any area within the gaming salon where lammer buttons, credit instruments, rim cards, chips, tokens, or other representatives of value are stored in any such salon, whenever any of these representatives of value are present, drop boxes are attached to gaming tables or any form of gaming is being conducted.

5. All monitoring through surveillance cameras must be recorded whenever the gaming salon is open for play. Such recordings must be maintained for a period of not less than 90 days. All

Surveillance Standards For Nonrestricted Licensees

Page 4



recordings must have a primary and backup copy stored on suitable non-volatile media approved by the chairman or his designee.

6. All surveillance provided within the gaming salon shall allow for 24-hour per day, seven day a week remote viewing from the offices of the board. Such remote viewing must be delivered in real time and at a minimum of 30 frames per second.

7. The entire area of the gaming salon, including all anterooms, with the exception of rest rooms, shall be able to be remotely viewed by an independent pan/tilt/zoom camera(s) dedicated exclusively to and operated by the board. The licensee of the gaming salon shall be exempt from the provisions of subsection 2.010(5) of the Surveillance Standards for Nonrestricted Licensees, to the extent necessary to comply with the requirements of this subsection.

8. All necessary hardware and software required to facilitate the remote viewing of a gaming salon shall be provided to the board by the licensee and must be approved by the chairman or his designee.

9. All information provided to the board pursuant to this section is considered to be confidential pursuant to the applicable provisions of NRS 463.120(4).

(Effective: 11/23/05.)

## STANDARD 11

### DIGITAL VIDEO RECORDING STANDARDS

1. As used herein, a "digital video recording" (DVR) shall mean: "visual images of the natural world converted into numbers and stored on tape, digital video disk, or other storage medium, for later reproduction."

2. All DVR equipment and systems used by a licensee in their surveillance system to comply with the requirements of the Surveillance Standards, shall:

(a) Be capable of recording and thereafter, being viewed, at a minimum of 30 images per second, full screen, in real time.

(b) Have visual resolution of sufficient clarity to meet all published Surveillance Standards.

(c) Maintain for a period of not less than seven (7) days, all images obtained from the video cameras.

(d) Have a failure notification system that provides an audible, as well as a visual notification of any failure in the surveillance system or the DVR media storage system.

(e) Have a media storage system that is configured so that a failure of any single component will not result in the loss of any data from the media storage system.

(f) For areas where gaming is conducted, cameras not specifically addressed by the surveillance standards must provide a minimum of seven and one half (7.5), full screen frames per second.

3. Any part of a Category "A," "B," or "C" licensee's surveillance system that uses a DVR, must not have more than 8 cameras required by the published surveillance standards in the first stage of concentration, unless the licensee has a fault tolerant or redundant system so there is no loss of data in the event of a failure of a single first stage of concentration.

4. Access, or the ability to access, a surveillance system using DVR's, from any location outside of the surveillance room, must be disclosed in a quarterly report filed with the Enforcement Division of the Gaming Control Board which sets forth the location and to whom access is being provided, other than surveillance personnel and key employees, and certifies that the transmission is encrypted, fire walled on both ends and password protected.

5. All digital video disks or other storage media produced from the DVR system must contain the data with the time and date it was recorded superimposed, the media player that has the software necessary to view the DVR images, as well as a video verification encryption code (also known as a watermark).

6. A video verification encryption code (watermark), must be submitted to the Gaming Control Board, at no cost to the Board, before the Board's inspection and approval of the DVR system.

7. Any failure of a DVR storage media system, must be repaired or replaced within 8 hours of the failure.

8. All DVR equipment must be located in the surveillance room of Category "A" and "B" licensees, and the secure location required of Category "C" and "D" licensees by Surveillance Standard 2.010(2), and the Surveillance Department shall be ultimately responsible for its proper operation and maintenance.

9. A licensee shall immediately provide written notification to the Enforcement Division if any portion of their surveillance system is changed from an analog to a DVR format, setting forth what the change will be, when the change will occur, and how the change will affect their surveillance system as a whole.

10. The board chairman in his sole discretion may waive one or more of the requirements of this section upon good cause shown.

11. This section shall become effective November 23, 2005.

#### **STANDARD 12**

##### **SURVEILLANCE SYSTEM STANDARDS**

The surveillance system of a category "A," "B," or "C" licensee, must be established and thereafter, maintained, so that a failure of any part or component will not result in the cessation of more than 50% of the surveillance coverage of the gaming area.

(Effective: 11/23/05.)

**Exemption:** The chairman of the board, by administrative approval, may exempt a licensee from compliance with any of these standards. All requests for exemption must be in writing and state the justification for the exemption and proposed alternative methods, if any, the licensee will undertake to accomplish the stated purpose of these standards under Nevada Gaming Commission Regulation 5.160(2).

#### **End – Surveillance Standards**

**Nevada Gaming Control Board Legal Definitions:****1.010 Definitions # 2**

"Dedicated camera" means a video camera required by these standards to continuously record a specific activity. In lieu of continuous recording, time-lapse recording is acceptable if approved, in advance, by the gaming control board chairman or his designee."

**2.010 Surveillance Equipment # 14**

"Reasonable effort must be made to repair each malfunction of surveillance system equipment required by these standards within seventy-two (72) hours after the malfunction is discovered. If a malfunction is not repaired within 7 days after it is discovered causing the licensee to be in non-compliance with these standards, the licensee must immediately notify the enforcement division via facsimile of the malfunction."

**2.010 Surveillance Equipment # 15**

"In the event of a dedicated camera malfunction, the licensee must immediately provide alternative camera coverage or other security measures, such as additional supervisory or security personnel, to protect the subject activity. If other security measures are taken, the licensee must immediately contact the enforcement division who will determine whether the other security measures are adequate."

**Surveillance Standard # 9**

"Each licensee must maintain a log that documents each malfunction and repair of the surveillance system (as defined in this standard). The log must state the time, date and nature of each malfunction, the efforts expended to repair the malfunction and the date of each effort, the reasons for any delays in repairing the malfunction, the date the malfunction is repaired and where applicable, any alternative security measures that were taken. The log should also reference, by date and time, any communication with the board concerning any malfunction or corrective action. The log must be retained for a minimum of 1 year after the date of the last entry in it."

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EXHIBIT NO. E-2 RECEIVED Y REJECTED \_\_\_\_\_  
CASE NO. 28-PC-154081 CASE NAME: DeLagio  
NO. OF PAGES: 2 DATE: 6/23/15 REPORTER: JB  
0176

OFFICIAL REPORT OF PROCEEDINGS  
BEFORE THE  
NATIONAL LABOR RELATIONS BOARD  
REGION 28

In the Matter of:

Bellagio LLC, d/b/a Bellagio  
Las Vegas,

Case No. 28-RC-154081

Employer,

and

International Union of  
Operating Engineers Local  
501, AFL-CIO,

Petitioner.

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UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 28

In the Matter of:

BELLAGIO, LLC, D/B/A BELLAGIO  
LAS VEGAS

Employer,

and

INTERNATIONAL UNION OF  
OPERATING ENGINEERS LOCAL 501  
AFL-CIO,

Petitioner.

Case No. 28-RC-154081

The above-entitled matter came on for hearing, pursuant to notice, before **NATHAN A. HIGLEY**, Hearing Officer, at the National Labor Relations Board, Region 28, Foley Federal Building, 300 Las Vegas Boulevard South, Las Vegas, Nevada 89101, on **Wednesday, June 24, 2015, at 8:59 a.m.**

A P P E A R A N C E S**On behalf of the Employer:****PAUL T. TRIMMER, ESQ.****GARY C. MOSS, ESQ.**

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I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Dustin Seibold	71	111	130/139	135	
Raymond Brown	150	194	220/225	223	
Edwin Collier	234	255			

E X H I B I T S

<u>EXHIBIT</u>	<u>IDENTIFIED</u>	<u>IN EVIDENCE</u>
<b>Employer:</b>		
E-3	270	270
E-4	72	72
E-5	77	81
E-6	168	168
E-7	179	180

1                                    **P R O C E E D I N G S**

2            HEARING OFFICER HIGLEY: Okay. We are resuming the  
3 hearing in the matter of Bellagio LLC d/b/a Bellagio Las Vegas,  
4 Case 28-RC-154081. At the time we went off the record last  
5 night the Employer's witness was on the stand. That was Mr.  
6 Seibold. Could you please take the stand again, sir?

7            Mr. Seibold, you understand you're still under oath?

8            MR. SEIBOLD: Yes.

9            Whereupon,

10                                   **DUSTIN SEIBOLD**

11           having been previously sworn, was called as a witness herein  
12           and was examined and testified as follows:

13           HEARING OFFICER HIGLEY: Okay. Employer will resume his  
14           questioning. Thank you.

15                                   **DIRECT EXAMINATION (CONTINUED)**

16           Q     BY MR. TRIMMER: Mr. Seibold, I think we left off talking  
17           about some of the things the techs do and their responsibility  
18           for maintaining coverage and the gaming control regulations.  
19           Does -- and we talked about moving poker tables and blackjack  
20           tables and other things on the main casino floor.

21           From time-to-time does Bellagio do -- conduct gaming  
22           activities off the casino floor?

23           A     Yes, we do.

24           Q     And can you explain when that happens?

25           A     Certain special events, or tournaments for invited guests



1 might take place in a ballroom, in a convention center.

2 Q I'm going to show you a document that will be marked as  
3 Employer's Exhibit 4.

4 **(Employer Exhibit Number 4 Marked for Identification)**

5 MR. TRIMMER: I will note for the record that is a two  
6 page email. At the top it's from Alija B-E-C-I-R-O-V-I-C. And  
7 that's to, among others, Dustin Seibold.

8 Q BY MR. TRIMMER: Can you tell me, do you recognize this  
9 email?

10 A I do.

11 Q Okay. And did you print this email?

12 A I did.

13 Q Okay.

14 MR. TRIMMER: I ask that Employer's 4 be admitted.

15 HEARING OFFICER HIGLEY: Any objection from the  
16 Petitioner?

17 MR. SOTO: No.

18 HEARING OFFICER HIGLEY: Okay.

19 Q BY MR. TRIMMER: Can you summarize --

20 HEARING OFFICER HIGLEY: 4 is admitted. Excuse me.

21 **(Employer Exhibit Number 4 Received into Evidence)**

22 MR. TRIMMER: Thank you.

23 Q BY MR. TRIMMER: Can you summarize what this communication  
24 is about?

25 A This is a communication between us, meaning Bellagio

1 surveillance and the gaming control board requesting approval  
2 of coverage we had setup for a satellite race and sports book  
3 and gaming pit in the ballroom.

4 Q What was the occasion that required you to setup these --

5 A They were holding a special event in the ballroom for the  
6 Super Bowl.

7 Q And this email is dated January 30th, 2015. So it's  
8 pretty recent?

9 A Yes.

10 Q Who is -- and I can't say the name. But it's from  
11 somebody. Who is it from?

12 A Alija Becirovic.

13 Q Who is Alija?

14 A He's one of the surveillance technicians at Bellagio.

15 Q And in the second email down in the chain it's from Paul  
16 Jeffrey to Alija; do you see that?

17 A Yes.

18 Q Who's Paul Jeffrey?

19 A He's an agent with the gaming control board.

20 Q So in this case the surveillance tech communicated  
21 directly with gaming control?

22 A That's correct.

23 Q And what was the purpose of this communication?

24 A To request approval for our coverage of the special event.

25 Is this -- is it common for your surveillance techs to do this?

1 A Yes, it is.

2 Q Okay. In this -- looking down at the bottom email it says  
3 that there's going to be six table games and six slot machines.  
4 And you also mentioned it was going to have a satellite race  
5 and sports book. Do you recall about how many people attended  
6 this big game party?

7 A I wouldn't know that off hand, no.

8 Q How large was the room?

9 A It was one of the larger ballrooms. It was, off the top  
10 of my head, I would estimate four to 5,000 square feet. It's a  
11 large room.

12 Q And so Mister -- so Alija was communicating with gaming  
13 control. And at the bottom it talks about pictures of camera  
14 shots and a map. What happened -- what were the surveillance  
15 techs doing with respect to the big game?

16 A They received communication from special events about the  
17 setup of the event and then designed and installed coverage.

18 Q And you say they designed and installed coverage. What  
19 did they do?

20 A They basically determined how many cameras, where the  
21 cameras would be placed and how the games and betting stations  
22 will be covered.

23 Q In determining where the games are placed did they have  
24 discretion to do that?

25 A They did.

1 Q I mean, where the cameras are placed?

2 A The cameras, correct.

3 Q And what types of things did they have to cover with their  
4 video shots?

5 A It would be the same as a table game on the casino floor,  
6 an overhead of the game to determine all activity on the game,  
7 the players and dealer and bank roll activity, as well as a few  
8 pan tilt zoom cameras in the area, variety shots and such.

9 Q And when they're setting up the coverage do they do  
10 anything on the table to confirm that they have coverage that  
11 complies with gaming control regulations?

12 A Yeah. They may use a deck of cards they carry with them.  
13 Lay cards out just to ensure we can determine the value of a  
14 card on a game from the shot.

15 Q How often does Bellagio conduct these types of special  
16 events, gaming activities off the main gaming floor?

17 A Probably about once a month on average.

18 Q And is that -- does -- sorry. It's still a little early.  
19 Did -- are any other employees involved in providing  
20 surveillance -- or installing surveillance coverage for these  
21 kinds of satellite gaming activities?

22 A Not in installation or coverage, no.

23 Q Okay. Are there employees involved in devising what kind  
24 of coverage to use?

25 A No.

1 Q And we've talked a little bit about setting up access  
2 permissions and things like that for cameras. Did the  
3 surveillance techs have to do all of those things for the  
4 satellite gaming event?

5 A Yes, they would.

6 Q Okay.

7 HEARING OFFICER HIGLEY: Do you exercise any oversight  
8 over their design or the placement of the cameras?

9 THE WITNESS: It would always be subject to my approval  
10 yes. But in situations like this they're aware of the  
11 regulations and the need for certain coverage. So they pretty  
12 much know what they need to do.

13 HEARING OFFICER HIGLEY: Okay. Is there ever a time where  
14 they don't need your approval?

15 THE WITNESS: I would say no.

16 HEARING OFFICER HIGLEY: Okay. And what's involved in  
17 your giving approval? Do you do the walk through and say it  
18 looks good, or do you check every -- the monitor corresponding  
19 to each camera?

20 THE WITNESS: No, I don't. Like in this case they just  
21 established the coverage, took the pictures and sent it to  
22 gaming. As I said, that would always be under my oversight but  
23 it's not -- I don't approve every camera shot before they send  
24 it off or anything like that.

25 HEARING OFFICER HIGLEY: Okay. I see you were carbon

1 copied on this message where they do send the camera shots. Is  
2 that representative of the extent of your review that you get  
3 the email, you see that same diagram of camera shots and if you  
4 have a problem with it you speak up?

5 THE WITNESS: Yes.

6 HEARING OFFICER HIGLEY: Okay. And that's typical of your  
7 review of their cameras?

8 THE WITNESS: That is typical, yes.

9 HEARING OFFICER HIGLEY: One other question. I see that  
10 this email, the very bottom one again on page 1 was directed to  
11 the ops unit. What's the ops unit?

12 THE WITNESS: The ops unit is a generic email account at  
13 the gaming control board. I assume it goes to any agent that  
14 would be able to approve coverage.

15 HEARING OFFICER HIGLEY: Okay, thank you.

16 Q BY MR. TRIMMER: I'm going to show you a document that'll  
17 be marked as Employer's Exhibit 5.

18 **(Employer Exhibit Number 5 Marked for Identification)**

19 MR. MILLION: If I may, if I'm not mistaken yesterday  
20 Paul, didn't you enter this as 4?

21 MR. TRIMMER: Oh, you're correct.

22 MR. MILLION: And we've got two 4s just so that we're  
23 correct on that, okay. Well, is that --

24 MR. SOTO: I don't know if this was --

25 MR. MILLION: -- that was a different case. Yes. That

1 was a different case, okay.

2 MS. MUCKLEROY: Pick a case, any case.

3 MR. MILLION: I'm just making sure.

4 MR. TRIMMER: No. I appreciate it.

5 MR. MILLION: No doubt.

6 MR. TRIMMER: Thank you. So Exhibit 5. For the record,  
7 this is another multipage document. The first page is an email  
8 that has Mr. Seibold's name at the top. The email's dated June  
9 12th, 2015.

10 Q BY MR. TRIMMER: Mr. Seibold, have you seen this email  
11 before?

12 A I have.

13 Q Okay. And you've seen all the pages that are attached to  
14 it?

15 A Yes.

16 Q Okay. Again, who is this email from?

17 A From Alija.

18 Q And who is it to?

19 A To the ops unit again.

20 Q And that's the gaming control board?

21 A Correct.

22 Q And can you tell -- this email's dated June 12th, 2015.  
23 Can you tell me what this document's about?

24 A This was a baccarat tournament that we held actually on  
25 the casino floor. And it's the same situation. They --



1 Alija's communicating to the gaming control board to request  
2 approval.

3 Q And looking at the second page there's a diagram there.  
4 What is that diagram?

5 A That is the tournament setup. So you'll see five baccarat  
6 tables setup. And it denotes our coverage of each table as  
7 well as PTZs in the area.

8 Q Are the PTZs, which icon represents the PTZs?

9 A The camera icon with the circle around denotes a PTZ  
10 camera.

11 Q And going to the next page it appears to be a -- what is  
12 the next page?

13 A That'd be a photograph of one of the tables we were  
14 covering. It's actually cut off from how I printed it, but  
15 these are the types of photos we submit for approval.

16 Q If you go one, two to another two pages it looks like  
17 that's a shot at an angle; do you see that?

18 A Is that 2903 in the left corner?

19 Q Yes.

20 A Yes.

21 Q And what does that depict?

22 A That depicts another one of our camera shots.

23 Q And the next page is another overhead shot; do you see  
24 that?

25 A Correct.

1 Q And that's another shot of a different table?

2 A Yes.

3 Q Okay. And the next page same thing?

4 A Yes.

5 Q And the next thing -- page?

6 A Yeah.

7 Q And the last page, what is -- or the next page, that has  
8 some people in it. What's that a depiction of?

9 HEARING OFFICER HIGLEY: You're looking at 3110?

10 MR. TRIMMER: Yes.

11 THE WITNESS: That's one of the three PTZ cameras in the  
12 area.

13 Q BY MR. TRIMMER: Okay. And is that the same for the next  
14 two?

15 A The next two are the same, correct.

16 Q And then the following page is another diagram; do you see  
17 that?

18 A Yes.

19 Q And what does that show?

20 A That just shows as the tournament progresses people are  
21 eliminated. When they get down to eight or nine people they  
22 reconfigure the room at one final table. And that's what this  
23 diagram depicts.

24 Q Okay.

25 MR. TRIMMER: I ask that Employer's 5 be admitted.

1 HEARING OFFICER HIGLEY: Any objection?

2 MR. SOTO: No.

3 HEARING OFFICER HIGLEY: Employer's 5 is admitted.

4 **(Employer Exhibit Number 5 Received into Evidence)**

5 Q BY MR. TRIMMER: And I see in the -- on the first page of  
6 the email an attachment. It says 500K baccarat June 2015; do  
7 you see that?

8 A Yes.

9 Q Do you recall what the buy-in was for this tournament?

10 A I do not know what the buy-in was.

11 Q What does the 500K refer to?

12 A That's the tournament prize structure.

13 Q Okay. And is this another example of a satellite gaming  
14 activity?

15 A Yes.

16 Q Okay.

17 HEARING OFFICER HIGLEY: On the table as represented in  
18 the diagram on page 2 I see that there are numbers in the  
19 middle of the table. Then we have overhead shots in the pages  
20 following. Do those numbers -- I realize they probably, you  
21 know, they number the table. Is that also representative of a  
22 placement of a fixed camera?

23 THE WITNESS: The small camera icon next to each table  
24 would denote which fixed camera was covering that table.

25 HEARING OFFICER HIGLEY: Okay.

1 THE WITNESS: So as far as table one you see C2901. That  
2 would indicate that camera 2901 is the one that was covering  
3 that.

4 HEARING OFFICER HIGLEY: Okay. But in reality it was not  
5 situated to the side; it was right overhead?

6 THE WITNESS: Correct.

7 HEARING OFFICER HIGLEY: Okay.

8 THE WITNESS: There was one table that third page -- or  
9 fourth page, camera 2903 that was slightly at an angle.

10 HEARING OFFICER HIGLEY: Okay. And are those positions  
11 dictated by the Nevada gaming control board?

12 THE WITNESS: The positioning itself is not. They do have  
13 certain standards of what needs to be visible on the game.

14 HEARING OFFICER HIGLEY: Okay. And you rely on the  
15 technicians to understand those regulations and place the  
16 cameras accordingly?

17 THE WITNESS: Correct.

18 HEARING OFFICER HIGLEY: Okay, thank you.

19 Q BY MR. TRIMMER: What sort of factors do the surveillance  
20 techs consider in the placement of the PTZ cameras?

21 A Generally like for in this case those cameras are  
22 existing. And it just happened to give a good overview of the  
23 general area. For a satellite in one of the ballrooms, they  
24 would basically consider how big the event is and how much  
25 coverage we may need, the best angles for ID'ing patrons, stuff

1 like that.

2 HEARING OFFICER HIGLEY: Is there any other reason -- I  
3 mean, is there a reason the Employer has, beyond just  
4 compliance with regulations for placing those cameras? Does it  
5 serve a dual purpose?

6 THE WITNESS: Of course if there was any dispute in the  
7 operation of the tournament we would have video coverage to  
8 review and investigate that claim.

9 HEARING OFFICER HIGLEY: Is there any concern over -- in  
10 placing those cameras is there any goal, or do they have an eye  
11 towards security at all besides the integrity of the game?

12 THE WITNESS: That is the basic goal is the integrity of  
13 the game, yes. Like I said, if there were any disputes on --  
14 if the game was dealt correctly, if the game was -- if there  
15 was any dispute between patrons regarding theft of tournament  
16 chips, any issue like that we would be able to review.

17 HEARING OFFICER HIGLEY: Okay.

18 Q BY MR. TRIMMER: When you say theft what do you mean by  
19 that?

20 A I mean, it wouldn't be unheard of for tournament players  
21 during a break to pilfer chips from each other. It'd be  
22 uncommon. These are generally invited guests with, you know,  
23 rather large bank rolls, but it has happened before.

24 Q And these cameras are used to prevent that?

25 A Yes.

1 Q Or rather I guess identify it and correct it?

2 A Identify it if it were to occur.

3 Q Is there any other way -- any other means -- let me ask a  
4 different question. Do you have a security officer to your  
5 knowledge posted at each of these tables during the tournament?

6 A To my knowledge, no.

7 Q And so the cameras are the sole means of detecting that  
8 kind of theft?

9 A Correct.

10 Q Okay. Is that true of the gaming floor as well?

11 A In general. There are security officers posted on the  
12 floor. But obviously not watching every patron every game all  
13 the time.

14 Q Okay. I think when we were talking yesterday we also left  
15 off when we were discussing operators and their  
16 responsibilities. What are the operators responsible for?

17 A Operators observe the casino floor in random fashion for  
18 suspicious activity, abnormalities in the game, enforcing  
19 procedures and policies. They're also responsible for focusing  
20 that coverage. If they received a phone call from table games,  
21 or slots, or security to establish the best coverage of  
22 whatever incident may be happening, or investigate customer  
23 claim, or other incident as needed.

24 Q And the operators, how -- what do they do with respect to  
25 the surveillance techs? What kinds of communications and work

1 takes place between the operators and the surveillance techs?

2 A If there were -- if operators were doing their equipment  
3 check, notice any kind of malfunction in the system, any camera  
4 that was out, they would communicate that to the surveillance  
5 techs. Any issue with retrieving video on the archive system.  
6 And they would communicate that. Basically any concern about  
7 coverage at all would be communicated to the surveillance  
8 techs.

9 Q And how often do they communicate each day?

10 A On a daily basis.

11 Q Do the surveillance techs provide training to the  
12 operators regarding the computer system?

13 A Yes. There's training on how to archive a video clip.  
14 There's training on how to pull up and perhaps create -- vies,  
15 which is basically splitting a screen into four, eight, nine,  
16 shoot different shots and having that as a default view when  
17 they sign in, something like that. Any operation of the  
18 digital system at all would most likely be communicated from a  
19 tech to the operators.

20 Q Do the operators know how to do that? Well, experienced  
21 operators know how to do that?

22 A Correct.

23 Q But if you have a new operator does that operator rely on  
24 the techs for that training?

25 A If they were new to the system we use, yes. They would



1 most likely rely on techs.

2 Q Okay.

3 HEARING OFFICER HIGLEY: The surveillance and the security  
4 cameras are separate, correct?

5 THE WITNESS: Yes.

6 HEARING OFFICER HIGLEY: And there are no security cameras  
7 over the gaming floor?

8 THE WITNESS: Correct.

9 HEARING OFFICER HIGLEY: But surely there are incidents  
10 that require security intervention on the gaming floor --

11 THE WITNESS: Yes.

12 HEARING OFFICER HIGLEY: -- occasionally? So does  
13 security rely entirely on surveillance cameras to record those  
14 in the event that they occur?

15 THE WITNESS: Yes, they do.

16 HEARING OFFICER HIGLEY: Okay, thank you.

17 Q BY MR. TRIMMER: And I wanted to ask you about a potential  
18 situation. You mentioned that from time-to-time customers may  
19 steal chips from other customers. Either in a tournament or  
20 maybe just at the table during normal play. If a customer did  
21 that and then began walking away from the gaming floor and  
22 walked through nongaming areas past the -- into the main lobby  
23 perhaps and then went out to the parking garage. How would the  
24 camera coverage work in identifying that individual and then  
25 tracking him? What systems would be used and how would that

1 play out?

2 A If it was -- if we caught it live or we're notified of the  
3 situation in time we could follow them live with PTZ cameras  
4 and we do have access to security cameras off the gaming floor  
5 and we could follow them out to the garage. Communicate to  
6 security where those subjects were. In an after the fact  
7 situation we have review capability of almost all of our  
8 cameras and we can track somebody in that manner.

9 Q So the -- if it's -- if this theft occurred on the -- at  
10 the table game that would be a surveillance camera?

11 A Correct.

12 Q And then a surveillance department camera would track that  
13 individual, or several cameras would track that individual  
14 until he went to a nongaming area?

15 A Correct.

16 Q And then you would use security cameras?

17 A Yes.

18 Q Okay. And then the security cameras would follow that  
19 individual out to the parking garage for example?

20 A Yes.

21 Q Does the -- if you caught that incident live would the  
22 surveillance department contact the security officers?

23 A Yes.

24 Q And what would they say?

25 A We would let them know what had happened. We also have

1 the ability to feed coverage of certain cameras, if we were  
2 tracking somebody; we had the ability to feed that monitor that  
3 we were watching that patron on directly to the security  
4 monitor room. And then it speeds the communication of where  
5 they are, where they're headed. And then they would  
6 communicate to their officers in an attempt to apprehend them.

7 Q And in terms of documenting that incident, if you needed  
8 to collect the video as evidence, you know, starting with the  
9 table game going all the way out into the parking garage.

10 Would security do that or would surveillance do that --

11 A Surveillance --

12 Q -- or does it matter?

13 A Surveillance would do it at least for the coverage on the  
14 casino floor. Security wouldn't have the ability to do that.

15 Q And then would security take over for the nongaming areas?

16 A Usually, yes. We would coordinate. We have this  
17 coverage, you guys, you know can pick them up on this camera  
18 and then they would archive their coverage.

19 Q So your department and security perform -- is it fair to  
20 say you perform essentially the same function in many ways?

21 A We collaborate quite a bit, yes.

22 Q Why is it not one department?

23 A Just for oversight. We often may need to do  
24 investigations on security officers. And for instance, the  
25 surveillance monitor room is -- their access restrictions

1 dictated by the gaming control board. The security monitoring  
2 room is not. So they have officers that may rotate in and out  
3 of that room. Where we have to have basically the same  
4 personnel at all times. We have to limit the access to that  
5 room.

6 Q Are the surveillance techs the only individuals that have  
7 access to both the security monitor room and the surveillance  
8 monitor room?

9 A Outside of myself and the VP of security, probably, yes.

10 Q Okay. And I want to talk about your electronic access  
11 control system. Do you -- does the Bellagio have an electronic  
12 access control system?

13 A We do.

14 Q And what kinds of areas does it cover?

15 A It covers any kind of sensitive area that we need to  
16 control access to. For instance, the security and surveillance  
17 monitor rooms, the server room, executive offices, cage, soft  
18 count.

19 Q With respect to the executive offices, what kind of  
20 electronic access control is in place there?

21 A There's magnetic locks on all the entrance doors. Once  
22 you -- there's a security officer posted at the entrance that  
23 he has to call into the office, get authorization to let  
24 anybody in. He keys in a code to the main entrance door.  
25 After that there's another access door that the receptionists

1 have to actually allow you to enter the main office area. The  
2 back entrances are controlled by magnetic locks with readers  
3 and codes.

4 Q Who's responsible for maintaining those locks?

5 A The surveillance techs.

6 Q And for programming the codes into those locks?

7 A The surveillance techs.

8 Q Do they have the ability to give themselves a personal  
9 code into those locks?

10 A They would.

11 Q Could they give the same type of code to another  
12 individual?

13 A Yes, they could.

14 Q A nonemployee?

15 A Yes.

16 Q Okay. With respect to the cage, does that work at a  
17 similar way?

18 A Similar. The cage is -- there's no key access, or code to  
19 get into the cage. A person inside the cage actually has to  
20 verify your authorization to enter and buzz you in.

21 Q So how many access doors does the cage have?

22 A There's two.

23 Q Okay. So -- and so how -- walk me through the process of  
24 how someone enters the cage.

25 A So you would approach the first door of the cage, buzz the

1 payphone. The person inside the cage that controls the access  
2 would see you on camera; verify that you're authorized to  
3 enter. They would buzz the first door. Then you enter what's  
4 called a man trap. The first door closes behind you. And both  
5 doors cannot be open at the same time. So if somebody were to,  
6 you know, attempt to enter or exit the cage we could lock them  
7 in the small room called a man trap.

8       Once you're in there they buzz again to enter the main  
9 cage proper.

10 Q     So when someone is entering the cage there is both video  
11 subpoena and there's an electronic lock?

12 A     That's correct?

13 Q     Who installed the video surveillance?

14 A     Surveillance techs.

15 Q     Do they maintain it?

16 A     Yes.

17 Q     Were they responsible for the views or the video feed that  
18 would come from that installation?

19 A     Yes, they are.

20 Q     Responsible for selecting, and I mean, ensuring that it  
21 was adequate?

22 A     Yes.

23 Q     Okay. And the electronic locks, who is responsible for  
24 ensuring those locks work?

25 A     Surveillance techs.

1 Q And do they have the ability to control those locks?

2 A Yes.

3 Q How would they do that?

4 A There's a -- basically the main server of the access  
5 control system is in the server room. And they would have a  
6 computer that gives them access to that server. And they could  
7 control any door on that system from --

8 Q So --

9 A -- the server room.

10 Q From their server room?

11 A Correct.

12 Q So they could, for example, defeat the man trap?

13 A They could.

14 Q They could open both doors at the same time?

15 A I believe the only way to open both doors at the same time  
16 would be to simulate a fire alarm. But there is a possibility  
17 they could do that.

18 Q They could do that?

19 A They could.

20 Q With their -- through the server room?

21 A That I don't know for sure.

22 Q Okay.

23 HEARING OFFICER HIGLEY: This may seem fairly obvious  
24 probably to everybody in the room, but not -- this record may  
25 be read by people well outside of the room. I want to ask,



1 what's the purpose of having the dual door system and the  
2 surveillance camera outside the cage?

3 THE WITNESS: Just to control access in the cage. If  
4 something were to happen when -- if somebody were to possibly  
5 defeat that outer door they would have another layer of  
6 security to defeat before accessing any funds or anything like  
7 that.

8 HEARING OFFICER HIGLEY: Yeah. And why is the -- why is  
9 access to the cage important?

10 THE WITNESS: The cage is the hub of all gaming funds in  
11 the casino.

12 HEARING OFFICER HIGLEY: That's where the money's kept?

13 THE WITNESS: There's -- yes. A lot of money in the cage.

14 HEARING OFFICER HIGLEY: Okay. Thank you.

15 Q BY MR. TRIMMER: You also mentioned the count room and the  
16 soft count room?

17 A Yes.

18 Q What is the count room?

19 A The count room is where every day the table games and slot  
20 machines that are emptied, the cans are taken to the soft count  
21 room, emptied, counted and verified.

22 Q And what's the soft count room? Same thing?

23 A That is what's -- yes.

24 Q Okay. That's what I thought, but I wasn't sure. So the  
25 count room, does that have an electronic access control lock?

1 A It does.

2 Q And how does that lock work?

3 A It's much the same, except control is in security. And  
4 surveillance has access to it as well. To access the man trap  
5 they need to be buzzed in by either a security monitor room  
6 personnel or surveillance monitor room and have a hard key.

7 Q So the count room, it's -- the access to the count room is  
8 controlled remotely from the monitor rooms?

9 A Correct.

10 Q Okay. And do the surveillance techs play any role in that  
11 electronic access log?

12 A Yes. It's -- they are also responsible for maintaining  
13 and installing those systems.

14 Q Do they have the ability to control that lock?

15 A They would.

16 Q And how would they do that?

17 A The same exact way. Just they have access to all the  
18 locks and their operation from the server room.

19 Q Does the Bellagio -- are you familiar with the Bellagio  
20 Gallery of Fine Art?

21 A I am.

22 Q And what is the Gallery of Fine Art?

23 A It's just an art gallery they have revolving exhibits to  
24 show off to visitors.

25 Q And for someone who's not from Las Vegas what is the --

1 what kinds of exhibits are shown in the gallery of fine art?

2 A Our upcoming exhibit is Picasso and the last exhibit we  
3 had were Faberge Eggs.

4 Q So very high value items?

5 A Yes.

6 Q Okay. Where is the Gallery of Fine Art located?

7 A It's just off the casino floor in a retail hallway.

8 Q And when the Faberge Eggs were there for example, was  
9 there -- well, let's start from the outside. Does the Gallery  
10 of Fine Art have an electronic access control?

11 A It does.

12 Q And can you describe that?

13 A Much the same. It has a code -- a key code panel on the  
14 main entrance. So you have to have the code to enter the  
15 gallery.

16 Q And that will get you in?

17 A Yes.

18 Q And who's responsible for programming the code at the  
19 Gallery of Fine Art?

20 A Surveillance techs.

21 Q And they could, same way like the executive offices, they  
22 could give themselves a code?

23 A Correct.

24 Q Could they give it to somebody else if they wanted to?

25 A They could.

1 Q Okay. Would you have the surveillance department -- would  
2 the surveillance department have any knowledge that a code had  
3 been given to someone else?

4 A No.

5 Q You'd have no way to detect that?

6 A No.

7 Q Okay. Now does the Gallery of Fine Art also have video  
8 surveillance?

9 A It does.

10 Q Has it ever changed?

11 A Yes. We're in the process of remodeling the gallery right  
12 now. And the surveillance techs have taken out all the analog  
13 cameras that used to cover the area and are upgrading to IP  
14 cameras.

15 Q Who devised the plan for coverage in the Gallery of Fine  
16 Art?

17 A The surveillance techs did.

18 Q And so can you give me -- you said that they took out all  
19 the old cameras and they're putting in IP cameras?

20 A Yes.

21 Q Can you give me -- elaborate on that a little bit?

22 A IP cameras are digital cameras that don't need encoding  
23 before they're recorded on a digital platform that we use.  
24 They also improved the resolution and quality of the coverage.

25 Q Are the new cameras just being slapped back in place of

1 the old cameras, or is it a different location?

2 A No. We actually decreased the amount of cameras since the  
3 coverage is better. So basically a new system in that area was  
4 completely redone.

5 Q When the exhibit changes do the surveillance techs have to  
6 modify coverage to ensure that -- in some cases?

7 A Yes.

8 Q And can you explain how that works?

9 A If any exhibit or the gallery itself requested special  
10 coverage, special alarms, they would be responsible for  
11 installing that.

12 Q Okay. Were any special alarms used in the Faberge Egg  
13 exhibit?

14 A Yes. The eggs were housed in glass cases on top of  
15 pedestals in order to ensure their security. Alarms were  
16 placed on those cases and the surveillance techs devised those  
17 alarms, which were basically small plunger switches under the  
18 glass that sat on the wooden cases. And if they were disturbed  
19 it would send a wireless signal to a receiver in the ceiling  
20 and alarm back to security.

21 Q So they established that whole system?

22 A They did.

23 Q And did the -- did that -- did they have the ability to  
24 turn that system on or off?

25 A They would have that ability.

1 Q And how would they do that?

2 A The access control system would control those alarms so  
3 they would have admin access to arm or disarm any alarm in that  
4 system.

5 Q And would they be able to control whether the security  
6 department knew that the alarm had been deactivated?

7 A Yes. I would imagine they could.

8 HEARING OFFICER HIGLEY: Do you know?

9 THE WITNESS: I don't know. I don't know. The security  
10 monitor room may be able to view whether the alarm was armed or  
11 not. I wouldn't know for sure.

12 HEARING OFFICER HIGLEY: Is the techs' responsibility of  
13 devising an alarm system for the fine art displays, in this  
14 case, the Faberge Egg display, is that typical in their work?

15 THE WITNESS: It is typical of their work, yeah.

16 HEARING OFFICER HIGLEY: If there are -- if the Bellagio  
17 needs an alarm system for other valuable property, you know,  
18 retail area, or off the gaming floor, do the techs devise and  
19 install those alarm systems?

20 THE WITNESS: Yes, they would.

21 HEARING OFFICER HIGLEY: Can you think of any examples  
22 besides the fine art gallery where they've done that?

23 THE WITNESS: Not with my personal knowledge. Like I said  
24 I've only been there about five months but --

25 HEARING OFFICER HIGLEY: Okay.

1 MR. TRIMMER: One of our other witnesses is going to talk  
2 about --

3 HEARING OFFICER HIGLEY: Okay.

4 MR. TRIMMER: -- jewelry store.

5 Q BY MR. TRIMMER: Would that be the -- let's say for  
6 example there's a Tiffany store at Bellagio, right?

7 A Yes.

8 Q Okay. If the Tiffany store was going to be remodeled  
9 would the surveillance techs play a role in maintaining or  
10 ensuring adequate exterior surveillance of the area?

11 A Generally not because those are leased outlets and the  
12 renter is responsible for that.

13 Q Okay. If the outlet is owned by Bellagio that's  
14 different?

15 A Correct.

16 Q Okay. So -- and we'll get into more detail. I know you  
17 weren't present when the remodel took place, but does the  
18 Bellagio have a jewelry store?

19 A They do.

20 Q What's it called?

21 A Tesorini.

22 Q And do you know -- do you have -- are you aware of whether  
23 the surveillance techs played a role in devising surveillance  
24 when Tesorini was remodeled?

25 A Yes. I know they handled the surveillance and alarm



1 system.

2 Q Okay.

3 HEARING OFFICER HIGLEY: The fine art displays are  
4 travelling art exhibits, correct?

5 THE WITNESS: Correct.

6 HEARING OFFICER HIGLEY: So that -- those pieces obviously  
7 don't belong to the Bellagio?

8 THE WITNESS: That's correct.

9 HEARING OFFICER HIGLEY: But the Bellagio is entrusted  
10 entirely with the security for those displays?

11 THE WITNESS: I don't know if the owners or exhibitors  
12 augment our surveillance and security measures or not.

13 HEARING OFFICER HIGLEY: Okay. You may have just answered  
14 this question, but do you know if there's anybody besides the  
15 surveillance techs installing security measures for --

16 THE WITNESS: I don't know of any, no.

17 HEARING OFFICER HIGLEY: Okay. Sorry to be so precise.  
18 This is what you get when you have a lawyer. Do you -- do you  
19 know for sure that nobody else does?

20 THE WITNESS: I don't know for sure that nobody else does.

21 HEARING OFFICER HIGLEY: Oh, okay. Thank you.

22 Q BY MR. TRIMMER: Are -- do any other Bellagio employees  
23 install --

24 A No.

25 Q -- those types of devices?

1 A No, they don't.

2 Q Okay. And if any of those devices linked into your  
3 surveillance system, for example, would you be aware of that?

4 A Yes.

5 Q Okay. I -- because we started yesterday and we're going  
6 on today, I want to make sure that we got everything in the  
7 record so I apologize if this is a little bit redundant.

8 We talked a little bit about the Honeywell system?

9 A Yes.

10 Q And the -- what is the Honeywell system again?

11 A The Honeywell Enterprise system is the digital platform  
12 that we record all video onto.

13 Q And does it just record video or does it also control  
14 camera access?

15 A It records all the cameras, determines who has access to  
16 vie which cameras, and who doesn't have access.

17 Q And who is responsible for the Honeywell system?

18 A Surveillance techs.

19 Q And that kind of access to that system do they have.

20 A They have what's called alpha admin access. It's the --  
21 they're basically the keepers of the system.

22 Q And what alpha admin access allow them to do?

23 A Basically everything. They can control what videos are  
24 recorded, who has access to view them. They basically operate  
25 the entire system.

1 Q And in determining who has access, does it require your, I  
2 don't know, physical approval before they modify the system in  
3 some way?

4 A No.

5 Q So if they -- and do they modify the system as -- in the  
6 normal course of their job?

7 A Sure. New cameras would be landed on the system, new  
8 users would be added for hiring or eliminated for terminations.  
9 That kind of thing happens on a regular basis.

10 Q And they can shut cameras off, for example?

11 A They could, yes.

12 Q And they could also do that maliciously, couldn't they?

13 A They could.

14 Q And how would they do it maliciously, for example?

15 A The same way. Their admin access gives them access to do  
16 anything they wanted to the system and wouldn't require  
17 anyone's approval.

18 Q Does the Bellagio have cameras located in or around the  
19 exterior of its premises?

20 A It does.

21 Q So, for example, there's the large fountain area in the  
22 front.

23 A Yes.

24 Q Are cameras located in that area?

25 A Yes.

1 Q And what system do those cameras run on?

2 A The security system.

3 Q Do they run back to the Honeywell system?

4 A Yes, they do.

5 Q And so that's again the server room where the surveillance  
6 techs work?

7 A Correct.

8 Q And do the surveillance techs have access to those  
9 cameras?

10 A Yes.

11 Q Could they turn those off and on?

12 A Certainly.

13 Q Okay. And does the same go for the cameras that -- well,  
14 does the Bellagio have cameras covering, say, the valet area?

15 A Yes.

16 Q Or the main entrance?

17 A Yes.

18 Q And those work the same way?

19 A Correct.

20 Q Okay.

21 HEARING OFFICER HIGLEY: Do the techs have to be anywhere  
22 specific to exercise their admin access to the Honeywell  
23 system?

24 THE WITNESS: Anywhere they have access to the system, so  
25 the server room, the monitor room, the security monitor room,

1 their tech shop. Anywhere there's a work station, they can  
2 access the system.

3 Q BY MR. TRIMMER: Could they do it from the front desk?

4 A I've heard they could. I'm not familiar with the process  
5 that they could do that but --

6 Q And do you have -- you don't know they would do that?

7 A I don't personally, no.

8 Q But they internally have claimed that they could?

9 A Yes.

10 Q Okay. You mentioned that the surveillance department will  
11 sometimes perform investigations on employees?

12 A Sure.

13 Q Can you elaborate on that?

14 A We do special observations of gaming employees from time  
15 to time. If there were any suspicions that were brought to our  
16 attention, we may focus our investigation on that person for a  
17 shift, two shifts until we determine any validity to the claims  
18 or cleared them.

19 Q Does that -- do those types of observations ever require  
20 the installation of a new camera?

21 A At some times, yes, they do.

22 Q And whose responsible for installing those cameras?

23 A Surveillance techs.

24 Q When the surveillance techs are given the instruction to  
25 install such a camera, are -- would they be given any details

1 about what's going to be investigated?

2 A They may in order to insure coverage is adequate to see  
3 what we're trying to see. They would most likely be given  
4 details.

5 Q And is that something -- those kinds of observations, is  
6 that something your department regularly does?

7 A We do.

8 Q And are there any other employees that have the ability to  
9 install those types of cameras?

10 A No.

11 Q Do you also perform special operations which involve the  
12 installation of a new camera --

13 A They could.

14 Q -- like a secret, covert camera?

15 A They could, yes.

16 Q And can you describe what -- how that would work?

17 A Much the same way. We would coordinate with surveillance  
18 techs to find out what the issue was and what we are trying to  
19 accomplish, and they would devise a coverage plan to install  
20 those cameras.

21 HEARING OFFICER HIGLEY: Are those investigations headed  
22 by security?

23 THE WITNESS: Many times they are. I would describe it as  
24 special observations we do on the casino floor -- require  
25 installations less than security investigations just because

1 our coverage saturation is so high on the floor anyway. So  
2 many of the ones that would require installation would be  
3 headed by security, but it's not unheard of to need a  
4 installation in a gaming area.

5 HEARING OFFICER HIGLEY: Do the -- are the investigations  
6 typically conducted by security, the investigation itself? I  
7 understand the installation.

8 THE WITNESS: That would -- that would also determine --  
9 or be determined by what the issue was. If it was a gaming  
10 issue, a gaming employee, or it was occurring on the casino  
11 floor, we would be the investigators. And, you know, we do  
12 work hand in hand with security on almost every investigation  
13 so there would be coordination.

14 HEARING OFFICER HIGLEY: Is that coordination limited to  
15 the placement of the cameras?

16 THE WITNESS: No, no, it's not. I mean would coordinate  
17 their investigators, may pull back background information on an  
18 employee we were investigating or assist, say, a gaming  
19 employee we suspect of pocketing chips, leaves the gaming area  
20 to relocate those chips on their person. Their coverage would  
21 be used for that, the continued investigations.

22 HEARING OFFICER HIGLEY: Okay. And so the site's camera  
23 coverage and camera placement, are the surveillance techs  
24 involved in the actual investigation? Do they interview  
25 individuals or --



1 THE WITNESS: No, they wouldn't interview anybody.

2 HEARING OFFICER HIGLEY: Do they -- do they write up  
3 reports about what they observe or do they observe the  
4 surveillance footage?

5 THE WITNESS: No.

6 HEARING OFFICER HIGLEY: Okay. So I -- so is the  
7 surveillance techs' involvement limited to the placement of the  
8 cameras and insuring that they provide adequate coverage?

9 THE WITNESS: Uh-huh, yes.

10 HEARING OFFICER HIGLEY: Okay. And I imagine if there is  
11 issues then with equipment or if they need -- if security or  
12 surveillance needs help retrieving archived footage, that the  
13 techs would be involved in that?

14 THE WITNESS: Correct.

15 HEARING OFFICER HIGLEY: Okay. Is -- would they be  
16 involved in any other stage of the investigation?

17 THE WITNESS: Just retrieving video, if like you said, if  
18 there were an issue, covertly removing or uninstalling the  
19 camera. I can't think of any other means they would be  
20 involved.

21 Q BY MR. TRIMMER: Well, when you conduct one of these  
22 special operations, do you tell all your monitor operators that  
23 this investigation is being conducted?

24 A Depending on the nature, I -- the majority of  
25 investigations, yes. Surveillance monitor room personnel would

1 be aware. Unless it involved one of my employees or their  
2 reason to believe that one of my employees was involved or too  
3 friendly with one of the targets.

4 Q Well, would -- is the surveillance department -- well, do  
5 you publicize that type of investigation outside the  
6 surveillance department?

7 A No, we wouldn't.

8 Q Would a normal security officer have access to that  
9 information?

10 A No.

11 Q The access control system, you mentioned, it works -- it's  
12 run by a computer that's out of the surveillance techs' server  
13 room?

14 A Yes.

15 Q Do -- is that set up basically like the Honeywell system?  
16 Is it with admin rights and things like that?

17 A Correct.

18 Q Okay. Explain how that works.

19 A It's basically the same. All the surveillance techs have  
20 one admin log on and which would give them access to the entire  
21 system. Like we talked about, arming, unarming alarms,  
22 accessing doors, providing card access to any of the doors.

23 Q When the -- your monitor operators are extracting video or  
24 downloading video to use for evidence in some other case, do  
25 they ever utilize the surveillance techs to do that work?

1 A Sure. If there were any issues or they needed, say advice  
2 if it was a large file -- I mean large number of files as far  
3 as what would the best way to be to archive them in a manner  
4 that the coverage would be easier to view. If there was a long  
5 string of cameras that were archived, they have ways to -- they  
6 might the techs to devise a naming system for their files so  
7 they're in order once they're archived. Any technical issues  
8 with retrieving that video would be --

9 Q If --

10 A -- brought to the techs.

11 Q If the -- if a video shot is saved and needs to be used as  
12 evidence in some case and it's -- it could be burned to a DVD  
13 or something like that?

14 A Yes.

15 Q Where is the DVD secured? Where is it kept?

16 A In the monitoring room.

17 Q Okay.

18 MR. TRIMMER: Can we go off the record for a second?

19 HEARING OFFICER HIGLEY: Yes. Off the record.

20 (Off the record at 9:52 a.m.)

21 THE COURT REPORTER: Okay.

22 Q BY MR. TRIMMER: Do the surveillance techs have keys? Are  
23 they issued keys?

24 A They are.

25 Q Okay. What kinds of -- what keys do they have?

1 A They have basically a set of keys to access almost any  
2 area on the property. They're -- at Bellagio there's several  
3 keys that allow access to say the catwalk of the mezzanine  
4 level where all the comm rooms and equipment lockers for  
5 surveillance equipment are located.

6 Q Are these surveillance equipment lockers, those are  
7 locked?

8 A They are.

9 Q And who has keys to those locks?

10 A The surveillance techs.

11 Q All right. Anyone else?

12 A No.

13 Q So the mezzanine level, that's a locked area as well?

14 A The mezzanine level itself isn't necessarily locked. It's  
15 not a public area, but the catwalk that comes off the mezzanine  
16 level over the casino floor is locked.

17 Q And the surveillance techs have access to that as well?

18 A Yes.

19 Q Do they have a key to get into the executive office areas?

20 A They would.

21 Q And how would they do that?

22 A Like I said, their keys are -- basically give them access  
23 to any areas. They also control the access control systems so  
24 they could eliminate any electronic locks as well.

25 Q Okay. Do all surveillance employees have the same keys?

1 A No.

2 Q Do all security officers have those same keys?

3 A I'm not aware.

4 Q Okay. But the surveillance employees do not?

5 A No.

6 Q Okay.

7 MR. TRIMMER: No further questions.

8 HEARING OFFICER HIGLEY: All right. I don't have any  
9 questions at this time. Petitioner, you now have a chance to  
10 cross-examine the witness.

11 MR. SOTO: Thank you.

12 **CROSS-EXAMINATION**

13 Q BY MR. SOTO: Dustin, you've been at the Bellagio how  
14 long?

15 A About five months.

16 Q Five months, okay. What kind of uniforms do the techs  
17 wear?

18 A They wear varying degrees of polo shirts, have Bellagio  
19 written on them.

20 Q Okay. What kind of pants do they wear?

21 A Usually black cargo-type pants.

22 Q Okay. What kind of uniforms do the security guards wear  
23 at the Bellagio?

24 A Maroon blazer, black pants.

25 Q Do -- the surveillance techs, do they wear blazers?

1 A No.

2 Q Okay. What kind of tools do the techs use?

3 A They have their small monitor. It allows them to view  
4 video feeds, connect their tools to strip, connect, add  
5 connectors to wire to connect them to cameras.

6 Q Is it fair to say that sometimes they carry screw guns,  
7 screw drivers?

8 A Yes.

9 Q Do -- to your knowledge, do the security guards carry  
10 screw guns?

11 A No.

12 Q Okay. Have you ever seen a security guard strip wire --

13 A No.

14 Q -- crimp coax cables?

15 A I have not.

16 Q Who normally does that work?

17 A Surveillance techs.

18 Q If someone is caught stealing at a blackjack table, who  
19 confronts those individuals?

20 A Either security or the gaming patrol board.

21 Q Do the surveillance techs confront these individuals?

22 A No, they do not.

23 Q Okay. Who's trained to confront those individuals?

24 A I'm not aware of training in other departments.

25 Q When you do special ops, who installs those cameras?

- 1 A Surveillance techs.
- 2 Q Do security guards install those cameras?
- 3 A No.
- 4 Q For example, if a GRA is caught stealing through one of
- 5 your special ops, do you have any input on the discipline, on
- 6 the investigation?
- 7 A I do not.
- 8 Q Okay. Who handles the investigation?
- 9 A Security.
- 10 Q Earlier you stated that you cannot go seven days without
- 11 cameras; is that correct?
- 12 A That's correct.
- 13 Q Have you ever gone seven days without the usage of cameras
- 14 on the gaming floor?
- 15 A Yes. We've --
- 16 Q For a --
- 17 A -- gone --
- 18 Q For a whole baccarat pit area, you've gone seven days
- 19 without cameras?
- 20 A For an entire pit?
- 21 Q Yeah.
- 22 A No.
- 23 Q When a camera is malfunctioning, not working properly, as
- 24 the director do you send security to fix it?
- 25 A No.



1 Q Who fixes the cameras that are broken?

2 A Surveillance techs.

3 Q Okay. Why would you send a surveillance tech to fix a  
4 camera and not a security guard?

5 A Surveillance techs are the only ones that are allowed to  
6 touch our equipment.

7 Q Okay. Would a security guard now how to fix a camera if  
8 it was malfunctioning, to your knowledge?

9 A I wouldn't know.

10 Q When hiring people, do you hire people?

11 A I do.

12 Q Okay. When you're hiring people what kind of -- what kind  
13 of qualifications do you seek?

14 A When I'm hiring people --

15 MR. TRIMMER: Vague as to people. Who?

16 MR. SOTO: The security guards or the security -- I mean  
17 I'm sorry. Surveillance director.

18 Q BY MR. SOTO: So when you surveillance techs, what kind  
19 of qualifications do you look for in a surveillance tech?

20 A Certification in Honeywell equipment, experience with  
21 closed-circuit television systems.

22 Q So --

23 A Networking.

24 Q So would you -- is it fair to say that if someone came  
25 lacking those qualifications that -- is it fair that you

1 wouldn't hire them?

2 A Yes. That'd be fair.

3 Q So a security guard with knowledge in forceful takedowns,  
4 life safety training, those wouldn't be the qualifications you  
5 seek, right?

6 HEARING OFFICER HIGLEY: Sorry, Mr. Soto. You said  
7 security guards. Did you mean to say --

8 MR. SOTO: I'm --

9 HEARING OFFICER HIGLEY: -- surveillance techs?

10 MR. SOTO: Surveillance techs.

11 THE WITNESS: Those qualifications would not be relevant.

12 Q BY MR. SOTO: To your knowledge do the surveillance techs  
13 carry handcuffs?

14 A No.

15 Q What about guns?

16 A No.

17 Q Night sticks?

18 A No.

19 Q Who carries handcuffs, guns, and night sticks at your  
20 property, the Bellagio?

21 MR. TRIMMER: It's compound with multiple -- who carries  
22 multiple items?

23 MR. SOTO: I'm sorry. I'll rephrase the question --

24 HEARING OFFICER HIGLEY: Go --

25 MR. SOTO: -- sorry.

- 1 HEARING OFFICER HIGLEY: Go item by item.
- 2 Q BY MR. SOTO: Okay. Who carries handcuffs at the
- 3 Bellagio?
- 4 A Security personnel.
- 5 Q Who is allowed to carry guns at the Bellagio?
- 6 A Limited security personnel.
- 7 Q Who is allowed to carry night sticks and weapons at the
- 8 Bellagio?
- 9 A I don't know.
- 10 Q Are the surveillance techs trained to restrain guests?
- 11 A No.
- 12 Q What would happen if a surveillance tech were to put a
- 13 guest in a choke hold?
- 14 A I would imagine that would depend on the situation?
- 15 Q Do surveillance techs normally put guests in choke holds?
- 16 A No.
- 17 Q Okay. Who's allowed to physically move cameras?
- 18 A Surveillance techs.
- 19 Q Are security guards allowed to physically move cameras?
- 20 A No.
- 21 Q If a dome is loose in the casino floor, would you send a
- 22 security guard to fix the dome?
- 23 A No.
- 24 Q Who would you send to fix the dome?
- 25 A Surveillance tech.

1 Q Are security guards in charge of designing your system?

2 A No.

3 Q Okay. In your server room if a server were to be  
4 malfunctioning, would you send a security guard to fix it?

5 A No.

6 Q You said you have a tech room --

7 A Yes.

8 Q -- correct? Are your parts stored there?

9 A Yes.

10 Q Okay. What kind of parts are in there?

11 A Spare cameras, connectors, any components that we might  
12 replace on a camera would be stored in there.

13 Q Okay. Would you store these spare cameras in a security  
14 officer's office?

15 A No.

16 Q Would you store parts, cat5, cat6, in a security guard's  
17 office?

18 A No.

19 Q Why not?

20 A Because security guards don't have offices.

21 Q Okay. They don't have a post area?

22 A They have -- they have a post, sure.

23 Q Okay. They don't have little, you know -- do they have a  
24 TV room or --

25 A We would not store it in any security area.

1 Q Okay. What kind of parts do you use to fix the cameras?

2 A I'm not aware of all electronic components. I wouldn't  
3 know the specifics.

4 Q Okay. Would a security guard use those parts?

5 A Not in the carrying out of their job duties, no.

6 Q So is it fair to say that you've never seen a security  
7 guard enter your parts' room and grab cat5, cat6?

8 A That would be fair to say.

9 Q Okay. To your knowledge, have you ever seen a security  
10 guard go into your parts' room and grab a spare camera?

11 A No.

12 Q Do security guards have access to your equipment?

13 A No.

14 Q Okay. Do you -- have you -- to your knowledge have you  
15 ever trained a security guard on how to archive certain shots,  
16 recordings?

17 A I have not.

18 Q Why wouldn't you or why -- sorry. Different question.

19 I'm asking a different question. So you said you have fixed  
20 cameras?

21 A Yes.

22 Q Those cameras, if they start malfunctioning, would you  
23 send a security guard to fix it?

24 A No.

25 Q Okay. Why wouldn't you?

- 1 A They're not qualified to touch our equipment.
- 2 Q Okay. Who's qualified to touch your equipment?
- 3 A Surveillance techs.
- 4 Q Earlier you stated that you have no surveillance techs on
- 5 swing or grave?
- 6 A That's correct.
- 7 Q Okay. So if a camera were to malfunction on graveyard,
- 8 would you send a security guard?
- 9 A No.
- 10 Q If a camera was malfunctioning on swing shift, would you
- 11 send a security guard --
- 12 A No.
- 13 Q -- to fix it?
- 14 A No.
- 15 Q Do security guards have handheld monitors?
- 16 A No.
- 17 Q Who has handheld monitors?
- 18 A Surveillance techs.
- 19 Q Okay. Can a security guard lock out a camera?
- 20 A No.
- 21 Q Who's allowed to lock out cameras?
- 22 A Surveillance techs.
- 23 Q Okay. If a operator or camera catches someone cheating,
- 24 counting cards, who confronts those guys?
- 25 A That's two different questions.

1 Q I'm sorry. If an operator catches someone counting cards,  
2 who approaches them?

3 A Usually --

4 Q Who approaches the --

5 A -- table games personnel.

6 Q Do they ever send surveillance techs?

7 A No.

8 Q Okay. But earlier there was an Exhibit 3, and you  
9 referred to area 761. Do security guards -- do they have  
10 access to log on to cameras in that pit 761?

11 A No, they wouldn't.

12 Q When's the last time a tech blacked out a pit?

13 MR. TRIMMER: They -- as to blacked out.

14 HEARING OFFICER HIGLEY: I think -- I think it would be  
15 best for the record to reflect blacked out so do you understand  
16 the term "blacked out"?

17 THE WITNESS: No, not necessarily.

18 HEARING OFFICER HIGLEY: Okay.

19 Q BY MR. SOTO: A malfunction in the picture that's being  
20 taken by the camera, if the camera is malfunctioning and the  
21 picture is dark, when's the last time that happened?

22 A And your question is stated for an entire pit?

23 Q Yeah, the entire pit.

24 A Never.

25 Q Let's say all the cameras were to go dark or blacked out,



1 how long would it take for you guys to notice something like  
2 that?

3 A Almost immediately.

4 Q Okay. So it's fair to say that this isn't really an  
5 issue?

6 MR. TRIMMER: What -- a vague -- I don't understand the  
7 question.

8 MR. SOTO: I'm sorry. Okay.

9 HEARING OFFICER HIGLEY: I think --

10 Q BY MR. SOTO: Is this one -- is this a priority one?

11 MR. TRIMMER: Vague as to this.

12 HEARING OFFICER HIGLEY: Yeah. Let's define --

13 MR. SOTO: Yeah.

14 HEARING OFFICER HIGLEY: Do you mean in a -- in a  
15 situation where a camera was not showing a picture; is that a  
16 priority one?

17 THE WITNESS: I'm sorry. Bless you. What was your  
18 question?

19 HEARING OFFICER HIGLEY: Oh, your question. Did you mean  
20 to say, is it a priority one when a camera does not show  
21 picture?

22 MR. SOTO: No. What I meant to say, is it something is a  
23 everyday concern?

24 HEARING OFFICER HIGLEY: When a camera is not showing --

25 MR. SOTO: Or -- yeah --

1 HEARING OFFICER HIGLEY: -- displaying a picture?

2 MR. SOTO: -- or blacked out or --

3 HEARING OFFICER HIGLEY: Okay.

4 MR. SOTO: Is that something that they are concerned about  
5 on a daily basis? Are you worried about cameras blacking out  
6 or a tech blacking out cameras?

7 HEARING OFFICER HIGLEY: That -- sorry that's also --

8 MR. SOTO: I'm sorry.

9 HEARING OFFICER HIGLEY: -- compound. So I'm not quite  
10 sure how to rephrase that. Is the --

11 MR. SOTO: I'll rephrase the question.

12 Q BY MR. SOTO: Are you worried on a daily basis about techs  
13 blacking out pit areas?

14 A Any malfunction in the system would be a concern of mine,  
15 yes.

16 Q Is that a daily concern?

17 A Yes. The surveillance system is vital to our operations.  
18 So yes, any malfunction would be a daily concern.

19 Q Okay. But a tech has never, to your knowledge, ever  
20 blacked out a whole entire pit?

21 A No.

22 Q All right.

23 A Intentionally, no.

24 Q Okay. And you mentioned earlier or it was mentioned

25 earlier that you guys have an art gallery. If a Picasso were

1 to be stolen, would they call a surveillance tech?

2 A No.

3 Q If a Faberge egg were to be stolen, would they call a  
4 surveillance tech?

5 A In the sense that they would investigate whether the alarm  
6 was functioning correctly or not, they would.

7 Q Okay. Would they call a surveillance tech to confront the  
8 thief?

9 A No.

10 Q Would they call a surveillance tech to confront someone  
11 stealing a Picasso?

12 A No.

13 Q Who would they call?

14 A Security.

15 Q Why would they call security?

16 A Because they're the people trained to respond to those  
17 situations.

18 Q Are security guards trained to respond to those  
19 situations?

20 A I have not --

21 Q I mean surveillance techs? I'm sorry.

22 A Surveillance techs, no.

23 Q You mentioned earlier activities other than a casino  
24 floor. Do you have cameras in your hallways?

25 A Yes.

1 Q Where are they?

2 A In the hallways.

3 Q Specifically where in the hallways?

4 A Are you asking for a security camera --

5 Q Yes.

6 A -- coverage?

7 Q Security cameras, yeah.

8 MR. TRIMMER: Well, vague as to hallways. And this is --

9 MR. SOTO: Tower, in your towers. In your tower room  
10 guest hallways.

11 HEARING OFFICER HIGLEY: Okay. So in the guestroom areas,  
12 obviously not in the rooms but in the hallways leading to them,  
13 are there security cameras placed?

14 THE WITNESS: To my knowledge, no.

15 Q BY MR. SOTO: Do you know why not?

16 A I don't.

17 Q To your knowledge are -- do crimes happen in those  
18 hallways?

19 MR. TRIMMER: If you know.

20 THE WITNESS: They could.

21 Q BY MR. TRIMMER: They could?

22 A Crime can happen anywhere.

23 Q Yeah. Specifically in your tower hallways I'm asking in  
24 your --

25 A I'm not personally aware of any crimes that have occurred.

1 Q Okay. But if a crime were to occur in the hallway, would  
2 they call a surveillance tech?

3 A No.

4 Q In these special events, you mentioned large areas -- a  
5 room, a 4,000-square foot room, correct?

6 A (No verbal response).

7 Q Super Bowl?

8 A Yes.

9 Q Okay. If people were to get unruly, maybe start fighting,  
10 how would they call?

11 A Security?

12 Q Okay. In these rooms where you have to physically install  
13 cameras because there's no camera there, would you call a  
14 security guard to install the cameras?

15 A No.

16 Q Who would you call?

17 A Surveillance techs.

18 Q To your knowledge, has a tech ever given access,  
19 administrative access to another employee to -- I'm sorry.

20 To your knowledge, has a surveillance tech ever given  
21 admin access to another employee?

22 A Not to my knowledge.

23 Q Okay. What would happen if that surveillance tech gave  
24 authorization or admin access to another employee?

25 A If we found out about, they'd be subject to a disciplinary

1 action.

2 Q Okay. How often do you surveil employees without their  
3 knowledge?

4 MR. TRIMMER: Vague as to surveil.

5 HEARING OFFICER HIGLEY: Do you understand what he means  
6 by the word "surveil"?

7 THE WITNESS: I do. I'm a little unclear on the term  
8 "without their knowledge." We're in a casino.

9 MR. SOTO: Without them knowing.

10 THE WITNESS: Everybody's basically aware of that cameras  
11 are present.

12 Q BY MR. SOTO: Even when you do special ops?

13 A No.

14 Q Okay. So how often do special ops happen?

15 A Probably one to two a month.

16 Q One to two a month? And this is -- and the reason for  
17 these special ops are?

18 A I stated before, I think, that we could be requested to  
19 observe an employee for suspicions from management or data  
20 gleaned from drop statistics or anything like -- any concern  
21 that management might have, we would perform a special  
22 observation.

23 Q Okay. When you perform these special operations, does it  
24 require stripping wire?

25 A If -- it could --

1 Q Okay.

2 A -- in the installation of a new camera may.

3 Q Okay. Would a security guard strip wire?

4 A No.

5 Q Who strips wire?

6 A Surveillance techs.

7 HEARING OFFICER HIGLEY: Is it fair to say that whenever a  
8 camera is installed in the -- in the property, a surveillance  
9 tech is responsible for that?

10 THE WITNESS: That's correct.

11 HEARING OFFICER HIGLEY: And is there ever a case that  
12 you're aware of when a security guard would be responsible for  
13 installing a camera?

14 THE WITNESS: There's not.

15 HEARING OFFICER HIGLEY: Okay.

16 Q BY MR. SOTO: So when you guys do a special operation and  
17 someone is caught stealing, who would -- who escorts that  
18 individual off the property?

19 A Surveillance tech -- or

20 Q So you --

21 A -- sorry. Security.

22 Q Okay. Why does security escort these individuals?

23 A That's whose trained to do it.

24 Q Okay. Are you guys trained to escort people off property?

25 A No.



1 Q When something is lost and found, do they turn it into the  
2 surveillance department?

3 A No.

4 Q Okay. If a security guard is standing post, let's say  
5 outside of fix, could you direct them to check on a camera  
6 that's malfunctioning?

7 A I can't direct security officers to do anything.

8 Q Okay. Is it because you're different departments?

9 A Yes.

10 Q Have you ever seen a security guard -- I may have asked  
11 this question already. I'm sorry if I'm repeating myself.  
12 Have you ever seen a security guard run wire, cat5, cat6?

13 A No.

14 Q What about piping?

15 A No.

16 Q Okay. Who normally does that work?

17 A Engineers.

18 Q Engineers?

19 A (No verbal response).

20 Q Okay. Do engineers have keys?

21 A Yes.

22 Q Are engineers allowed in sensitive areas?

23 A I wouldn't be aware of their access.

24 Q Okay. Okay.

25 HEARING OFFICER HIGLEY: Related to that question, running

1 the wire and the piping, is that in connection with installing  
2 the cameras?

3 THE WITNESS: Yes. Surveillance techs only install the  
4 actual cameras. They don't run wire or run conduit or pipe.

5 HEARING OFFICER HIGLEY: Okay. So there are times when  
6 the surveillance techs are installing the camera, they need  
7 additional wire or some kind of conduit. And in that case,  
8 surveillance relies on the engineers?

9 THE WITNESS: That's correct.

10 HEARING OFFICER HIGLEY: Okay. Thank you.

11 Q BY MR. SOTO: Okay. You showed us Exhibit -- or Exhibit 3  
12 was provided to us. Who sets up all these cameras and gaming  
13 tables?

14 MR. TRIMMER: That's -- there's two questions there.

15 MR. SOTO: I'm sorry.

16 Q BY MR. SOTO: Who sets up the cameras?

17 A Surveillance techs.

18 Q Do security guards set up the cameras?

19 A No.

20 Q Okay.

21 MR. SOTO: I think that that's it. I have no further  
22 questions. Thank you.

23 HEARING OFFICER HIGLEY: Okay. Mr. Trimmer, do you have  
24 any quick questions?

25 MR. TRIMMER: I do have a couple of additional questions.

1 REDIRECT EXAMINATION

2 Q BY MR. TRIMMER: Does security -- the security department  
3 has officers stationed in the monitor room?

4 A Yes.

5 Q And do the surveillance techs train those officers  
6 regarding use of the Honeywell system?

7 A Yes, they would.

8 Q And does the security director -- does the director of  
9 security give direction to the surveillance techs regarding  
10 camera installation and other things like that?

11 A Through me, they would coordinate any installations of the  
12 security system, yes.

13 Q You were asked a question about the alarm system for  
14 Faberge eggs or for the Picasso. If the alarm system had been  
15 defeated in some way, would surveillance techs -- who would be  
16 responsible for investigating how the alarm was defeated?

17 A Surveillance techs.

18 Q And would the same be true if a camera system was  
19 defeated?

20 A Yes.

21 Q Any other employees have first-line responsibility for  
22 determination how an electronic security device had been  
23 defeated?

24 A Myself, perhaps, but no one else.

25 Q Okay. You were asked a question about whether

1 surveillance techs had given admin access rights to -- well,  
2 the system wasn't specified, but whether they had been given --  
3 they had given admin access rights to employees that were not  
4 surveillance techs. First, with respect to the Honeywell  
5 system, if a surveillance tech had given another individual  
6 admin access to that system, would you know?

7 A No.

8 Q Unless they told you?

9 A Unless they told me.

10 MR. SOTO: Objection. The witness answered no to the  
11 question meaning it's never happened, correct?

12 HEARING OFFICER HIGLEY: I believe he said he wouldn't  
13 know if it had happened.

14 MR. SOTO: But it's -- to his knowledge no one has ever  
15 done that.

16 HEARING OFFICER HIGLEY: No. There are -- well, he -- I  
17 believe the question was would you know if it had happened.

18 MR. SOTO: Okay.

19 HEARING OFFICER HIGLEY: And he stated, no, I wouldn't.

20 Q BY MR. TRIMMER: Isn't that kind of the point? You  
21 wouldn't have any idea, right?

22 A Exactly.

23 Q You have no way to control their activities because of  
24 their access rights --

25 A Correct.

1 Q -- is that correct? How about for the access control  
2 system? Would you know if a surveillance tech gave another  
3 individual admin access rights to the access control system?

4 A No.

5 Q Would you know if a surveillance tech gave a -- the code  
6 to the administrative offices? Would you know if -- or the  
7 executive offices. Would you know if a surveillance tech gave  
8 someone else the code to the executive offices?

9 A No.

10 Q Would you know if the surveillance techs established their  
11 own secret code that would pop all of the electronic access  
12 locks in the hotel?

13 A No.

14 Q They could do that?

15 A I don't know if there's a code they could devise that  
16 could do that, but certainly from the admin workstation, they  
17 could do that.

18 Q With respect to any door that's controlled by a keypad,  
19 could they do that?

20 A Yes.

21 Q Okay. And any -- they could also give themselves or  
22 others a fob to access any fob door?

23 A Yes.

24 Q Okay.

25 HEARING OFFICER HIGLEY: Some of these hypothetical

1   improprieties would come to light perhaps through with another  
2   employee observing them or security observing them on their  
3   cameras?

4           THE WITNESS:   Yes, they could.

5           HEARING OFFICER HIGLEY:   I realize this is all  
6   hypothetical, but I just want to clarify.  There is no system  
7   in place to restrain the technicians' administrative access.  
8   They have, in a sense, unfettered access to the access control  
9   system and the Honeywell system.

10          THE WITNESS:   That's correct.

11          HEARING OFFICER HIGLEY:   Okay.  If -- I mean is there a  
12   way of knowing how many people are logged on with  
13   administrative access at one time?

14          THE WITNESS:   I'm not aware of that.

15          HEARING OFFICER HIGLEY:   Okay.  So if ten people -- you  
16   only have three, possible four, surveillance techs.  If there  
17   were ten people logged on as administrators, you wouldn't know?

18          THE WITNESS:   No, I wouldn't.

19          HEARING OFFICER HIGLEY:   Okay.  Thank you.

20   Q     BY MR. TRIMMER:   You were asked a question about the  
21   access that engineers have to sensitive areas.  Do engineers  
22   have the ability to access the surveillance department rooms  
23   on --

24          MR. SOTO:   Objection.  He answered that question.  He said  
25   he didn't know.

1 MR. TRIMMER: This is an argument --

2 MR. SOTO: I'm sorry.

3 MR. TRIMMER: -- and it's not an appropriate objection.

4 HEARING OFFICER HIGLEY: Well, if it's asked and answered  
5 and he already said no --

6 MR. TRIMMER: It wasn't asked and answered.

7 MR. SOTO: Yes, it was.

8 HEARING OFFICER HIGLEY: Well, can I hear the question  
9 again?

10 MR. TRIMMER: I asked, do engineers have the ability to  
11 access surveillance department facilities.

12 HEARING OFFICER HIGLEY: Okay. Yeah. I don't believe  
13 there's been any question about --

14 MR. SOTO: Okay.

15 HEARING OFFICER HIGLEY: -- access.

16 THE WITNESS: No access to surveillance.

17 Q BY MR. TRIMMER: If they want to access the monitor room,  
18 how would an engineer do that?

19 A Monitor room personnel or us, surveillance tech or myself  
20 would have to let them in.

21 Q And is an engineer wished to access the server room, how  
22 would an engineer do that?

23 A The same way.

24 Q Do engineers have access to security department  
25 facilities, or do you know.

1 A I don't know.

2 Q Do engineers have the key that unlocks the surveillance  
3 lockers that are throughout the facility?

4 A I don't know.

5 Q Okay.

6 MR. TRIMMER: No further questions.

7 HEARING OFFICER HIGLEY: All right. Thank you.

8 Petitioner, do you have any --

9 MR. SOTO: Yes.

10 HEARING OFFICER HIGLEY: -- questions?

11 MR. SOTO: YEs.

12 **RECROSS-EXAMINATION**

13 Q BY MR. SOTO: Earlier it was stated that the surveillance  
14 techs have lockers, correct?

15 A You speaking of the equipment lockers?

16 Q Lockers, procure lunch bag. Do you guys have --

17 A No.

18 Q -- lockers?

19 A No, that -- no, that wasn't the lockers I was speaking of.

20 Q Okay. What lockers were you speaking of?

21 A Lockers on the catwalk that are junction points for  
22 cameras coming in and splicing with the -- whatever medium we  
23 use to feed it back to the --

24 Q Okay.

25 A -- head.



1 Q If -- okay. If a surveillance -- if a tech were to hide  
2 something in one of those lockers and you were aware of it,  
3 would you call security to open that locker?

4 A I don't know. I don't know if they'd access to them.

5 Q So security does not have access to those lockers?

6 A To my knowledge, no.

7 Q If you suspected that something was stolen and hidden in  
8 one of those lockers, they couldn't open it?

9 A Not to my knowledge.

10 Q Okay. In your art gallery, to your knowledge, has the  
11 alarm system ever been beaten or defeated?

12 A Not to my knowledge.

13 Q Okay. If you're -- if the alarm system were to be  
14 defeated, would you know -- how long would it take you to know  
15 it was defeated?

16 A I can't answer that.

17 HEARING OFFICER HIGLEY: You can't answer that because  
18 it's never happened or --

19 THE WITNESS: Because it's never happened, and it seems  
20 like there are too many variables. I mean, when would we be  
21 notified of the missing property? When -- you know, how long  
22 would an investigation take? How long would it determine if  
23 the alarm was actually defeated?

24 HEARING OFFICER HIGLEY: It would depend in -- on the  
25 manner in which you were -- became aware that the system was

1     defeated?

2           THE WITNESS:   That we became aware and the manner in which  
3     it was defeated itself, I would say.

4           HEARING OFFICER HIGLEY:   Okay.

5     Q     BY MR. SOTO:   As the director, do you feel you should have  
6     control to your techs' access?

7           MR. TRIMMER:   Vague as to control and access.   Access to  
8     what?

9           HEARING OFFICER HIGLEY:   Sustained.

10          MR. SOTO:   Let me rephrase the question.

11     Q     BY MR. SOTO:   As a director, do you feel you should know  
12     when administrative access is given out by one of your techs?

13          MR. TRIMMER:   Is he asked --

14          MR. MILLION:   It's pretty straightforward.

15          THE WITNESS:   By?

16     Q     BY MR. SOTO:   Do you feel you should have knowledge if  
17     administrative access is given out by one of your techs?

18          MR. TRIMMER:   I object on the basis of relevance.   I don't  
19     know what his feelings have to do with this.

20          MR. SOTO:   That's correct.   The surveillance director's  
21     feelings may not be important.

22     Q     BY MR. SOTO:   Are you at all concerned, sir, about the  
23     technicians', as I've described it, unfettered access?

24     A     Assuming policies and procedures are followed I wouldn't  
25     know of any additional access they were giving out.

1 HEARING OFFICER HIGLEY: Okay. There's quite a bit of  
2 trust placed in the integrity of theses surveillance techs,  
3 correct?

4 THE WITNESS: Absolutely.

5 HEARING OFFICER HIGLEY: I don't know if that resolves  
6 your question. You're welcome to continue.

7 Q BY MR. SOTO: What are those policies and procedures?

8 A That I have oversight of the department, and any decision  
9 that they made to compromise that -- the security of the system  
10 should have my access. So if they were to give any admin  
11 rights, that certainly should be -- I should be notified of  
12 that.

13 Q So you have to be notified. Policies and procedures are  
14 that you are supposed to be notified before they give access to  
15 anyone, correct?

16 A Technically speaking, I would say that policies and  
17 procedures are, they don't give admin access to anybody else,  
18 myself and Mr. Reynolds' techs are the only ones who should  
19 ever have that access.

20 Q So policy -- if policies and procedures aren't followed,  
21 what would happen to a tech?

22 A Disciplinary action?

23 MR. TRIMMER: I have no further questions.

24 HEARING OFFICER HIGLEY: Okay. Any more questions from the  
25 Employer?

1 MR. TRIMMER: I just have two follow-up questions, and I  
2 apologize for this.

3 HEARING OFFICER HIGLEY: Okay.

4 **FURTHER REDIRECT EXAMINATION**

5 Q BY MR. TRIMMER: In a situation where you're conducting a  
6 special observation or a special investigation, so let's talk  
7 about a special observation first. If your department was  
8 asked to monitor a particular dealer's activities and to  
9 monitor that dealer's activities you were required to lock out  
10 a camera on that dealer, is it your expectation that the --  
11 well, who would do that first of all?

12 A Mr. Reynolds' techs.

13 Q And is the surveillance tech allowed to tell the dealer  
14 that this camera has been locked onto her table?

15 A Absolutely not.

16 Q And similarly if you were asked to place a pinhole camera  
17 on the catwalk because there is a belief that an engineer was  
18 sleeping on the job in the catwalk, would the surveillance tech  
19 be expected to not tell that engineer that the camera had been  
20 placed?

21 A That would be the expectation.

22 Q If he disclosed the placement of the camera to an  
23 engineer, would that be a violation of company policy?

24 A It'd be a violation of certainly department policy. All  
25 my employees are aware of a confidentiality agreement with

1 whatever happens in surveillance doesn't leave.

2 MR. TRIMMER: No further questions.

3 HEARING OFFICER HIGLEY: Okay. Any further questions from  
4 the Petitioner --

5 MR. SOTO: No.

6 HEARING OFFICER HIGLEY: -- Mr. Soto?

7 MR. SOTO: No, sir.

8 HEARING OFFICER HIGLEY: Okay. I do have a few questions.

9 Is it correct that the surveillance techs are not armed?

10 THE WITNESS: That's correct.

11 HEARING OFFICER HIGLEY: Okay. What is on the ID badge of  
12 the surveillance tech?

13 THE WITNESS: As far -- that the bean badge?

14 HEARING OFFICER HIGLEY: Bean badge, yes.

15 THE WITNESS: They wear name badges.

16 HEARING OFFICER HIGLEY: Okay. Do you know if security  
17 guards wear name badges?

18 THE WITNESS: They do.

19 HEARING OFFICER HIGLEY: Okay. Are you aware of what's on  
20 those badges?

21 THE WITNESS: I believe just the name and hometown for  
22 non-supervisors, I believe.

23 HEARING OFFICER HIGLEY: Okay. Where are the surveillance  
24 techs found throughout the day? Do they stay in an office,  
25 typically the server room or the equipment room, or do they --

1 are they at different sites working on cameras?

2 THE WITNESS: Yeah. Depending on what's going on, they  
3 could be -- if we're in the middle of upgrading analogue  
4 cameras to IP which might require all of them to be out in the  
5 field for the entire day, or if we're investigating issues with  
6 one of the servers, they might be in server room all day so --

7 HEARING OFFICER HIGLEY: Okay. If they're not in the  
8 field or working in the server room, is there a default  
9 location that they have an office, for example?

10 THE WITNESS: There's a workshop where the -- they have an  
11 office, and the server room has several workstations that serve  
12 as a de facto office.

13 HEARING OFFICER HIGLEY: Okay. So, sorry if I didn't  
14 catch that. Are those three different locations then, the  
15 server room, their workshop, and an office?

16 THE WITNESS: No, no. Their workshop contains an office.

17 HEARING OFFICER HIGLEY: Okay. Is the server room a  
18 functioning workstation? Would they -- would they be just as  
19 likely to work there as in their office?

20 THE WITNESS: Yes.

21 HEARING OFFICER HIGLEY: Okay. Do they ever patrol the  
22 floor to verify equipment, or do they only go to a location as  
23 needed?

24 THE WITNESS: As needed. We don't have like routine  
25 patrols so to --

1 HEARING OFFICER HIGLEY: Okay.

2 THE WITNESS: Yeah. The only thing you would see from a  
3 patrol is like if a dome was off. Or you would have to  
4 actually look through the system to see if the camera is  
5 functioning so --

6 HEARING OFFICER HIGLEY: Okay. So there's no point to  
7 their making rounds then?

8 THE WITNESS: Correct.

9 HEARING OFFICER HIGLEY: Okay. Do the surveillance  
10 technicians have any training with regard to responding to  
11 suspicious activity on the premises?

12 THE WITNESS: No. Unless -- I mean unless it involved  
13 responding to some tampering with cameras or access control  
14 locks. They would respond to that.

15 HEARING OFFICER HIGLEY: Okay. So if they see -- I  
16 supposed it would have to be somebody on a ladder tampering  
17 with a camera. The surveillance tech would be expected to  
18 intervene because that's their equipment?

19 THE WITNESS: I don't know if I'd -- I mean anybody -- any  
20 employee would be expected to intervene if they saw somebody on  
21 a ladder messing with a camera. But if you mean intervene and  
22 confront the person, no. I'm talking more respond to ensure  
23 the equipment is correct.

24 HEARING OFFICER HIGLEY: Okay. Would it be -- say there  
25 is somebody on a ladder, that -- it would not be a security

1 officer called to respond to that kind of --

2 THE WITNESS: Most likely.

3 HEARING OFFICER HIGLEY: -- scenario? Okay.

4 Is -- then in that regard in a context where a  
5 surveillance tech sees theft or vandalism, is their duty any  
6 different from any other employee besides the security guards  
7 to respond to that?

8 THE WITNESS: No.

9 HEARING OFFICER HIGLEY: Okay. What action would -- I'll  
10 withdraw that question.

11 Do your surveillance techs have any special responsibility  
12 that is distinguishing them from other employees, except  
13 security guards, as in regard to reporting or action to take if  
14 they see misconduct or anything suspicious?

15 THE WITNESS: I would say no. I mean all employees would  
16 be expected to report.

17 HEARING OFFICER HIGLEY: Okay. That was my next question.  
18 What is the expectation, say report to whom?

19 THE WITNESS: Report to either surveillance or security.

20 HEARING OFFICER HIGLEY: Okay. What would be the purpose  
21 of reporting to surveillance?

22 THE WITNESS: To obtain coverage, to be used as evidence  
23 if, you know, in whatever an incident was.

24 HEARING OFFICER HIGLEY: Okay. The reason they report to  
25 surveillance as opposed to security would be because that's



1 where the -- they're in an area where surveillance cameras  
2 are --

3 THE WITNESS: Correct.

4 HEARING OFFICER HIGLEY: -- as opposed to security?

5 THE WITNESS: Correct.

6 HEARING OFFICER HIGLEY: Thank you. Do surveillance techs  
7 maintain any kind of a log of their daily activities?

8 THE WITNESS: We maintain a malfunction log so if any  
9 aspect of the surveillance system were to malfunction, monitor  
10 room personnel or technicians, whoever notices the malfunction,  
11 would enter that in a log which is mandated by the gaming  
12 patrol board. And then whichever technician were to resolve  
13 that issue would make an entry as well.

14 HEARING OFFICER HIGLEY: Okay. Anything -- any kind of  
15 record besides the malfunction log that they maintain?

16 THE WITNESS: No.

17 HEARING OFFICER HIGLEY: And I mean with regularity. I  
18 understand that there may be incidents where they have to fill  
19 out a report, but a regular log?

20 THE WITNESS: No.

21 HEARING OFFICER HIGLEY: Okay. Is there anybody beside  
22 the surveillance techs who can deactivate the Employer's  
23 security system?

24 THE WITNESS: The closed-circuit TV system?

25 HEARING OFFICER HIGLEY: Yeah. Well, let's say -- let's

1 start with the closed-circuit TV system.

2 THE WITNESS: No.

3 HEARING OFFICER HIGLEY: How about --

4 THE WITNESS: Surveillance techs and myself have the only  
5 admin rights.

6 HEARING OFFICER HIGLEY: How about the control -- or  
7 access control system?

8 THE WITNESS: No.

9 HEARING OFFICER HIGLEY: I understand that surveillance  
10 techs potentially could grant themselves access to virtually  
11 anywhere on the property. Is there anywhere that they couldn't  
12 gain access to?

13 THE WITNESS: Not to my knowledge.

14 HEARING OFFICER HIGLEY: Abiding by company policy, is  
15 there anywhere they don't have access to?

16 THE WITNESS: No. The only stipulation to that would be  
17 they have access to just about anywhere as long as it's for a  
18 legitimate purpose. Being that we have cameras almost  
19 everywhere, they pretty much have to have access.

20 HEARING OFFICER HIGLEY: Okay. Let's say -- do they have  
21 access without taking additional steps in the access control  
22 system? Using their administrative authority, could they walk  
23 into the executive suites?

24 THE WITNESS: They could. To my knowledge they carry key  
25 fobs that have what's called everywhere access so they would

1 most likely be able to walk in without actually any extra  
2 steps.

3 HEARING OFFICER HIGLEY: Do surveillance techs ever  
4 respond to direction by the director of security?

5 THE WITNESS: Not directly, but yes. You know, they  
6 service the security cameras and access control as well so they  
7 work with security almost just as closely as me.

8 HEARING OFFICER HIGLEY: Okay. You said not directly.  
9 Does all that direction come through you?

10 THE WITNESS: Technically speaking, yes.

11 HEARING OFFICER HIGLEY: Okay. Could you explain --

12 THE WITNESS: I mean in a matter of practice, if Ray, the  
13 VP of security needed an installation done somewhere, he'd make  
14 -- contact the techs and copy me. And that, you know -- that's  
15 fine as long as I'm aware of what they're doing.

16 HEARING OFFICER HIGLEY: Okay. So there are times then  
17 when the director of security's inclusion of you in his  
18 involvement with the surveillance techs is really just a matter  
19 of form, to keep you informed of what's going on in your  
20 department?

21 THE WITNESS: Correct.

22 HEARING OFFICER HIGLEY: Okay. And has there ever been a  
23 time when he's come to you and said, I need help from your  
24 surveillance techs, and you've said no?

25 THE WITNESS: No.

1 HEARING OFFICER HIGLEY: Okay. Are you involved -- do you  
2 have any knowledge of the background check required for a  
3 potential surveillance tech, somebody who's looking to hire a  
4 surveillance tech?

5 THE WITNESS: They go through a tier 3 background check --

6 HEARING OFFICER HIGLEY: Okay.

7 THE WITNESS: -- from corporate security.

8 HEARING OFFICER HIGLEY: All right. And I believe you  
9 testified earlier that there are four levels?

10 THE WITNESS: Correct.

11 HEARING OFFICER HIGLEY: Okay. Do you know who has a  
12 level 4 background check?

13 THE WITNESS: Monitor room personnel. Other than that,  
14 executives. I don't know of an exhaustive list but --

15 HEARING OFFICER HIGLEY: Okay. Is this tier system, is  
16 that an Employer established system or is this based on police  
17 department or FBI?

18 THE WITNESS: No. To my knowledge, it's Employer  
19 established.

20 HEARING OFFICER HIGLEY: Okay. Are there any unions in  
21 your -- in the surveillance department currently?

22 THE WITNESS: No.

23 HEARING OFFICER HIGLEY: Do you have any involvement in  
24 labor relations' matters? And do you understand what I mean  
25 say labor relations?

1 THE WITNESS: I do. Outside of the operations and  
2 coverage establishments that we've already talked about, those  
3 may involve a represented employee. But that would be the  
4 extent of my involvement.

5 HEARING OFFICER HIGLEY: Okay. So you're never asked to  
6 sit in on grievances, for example?

7 THE WITNESS: No.

8 HEARING OFFICER HIGLEY: Okay. How about negotiating  
9 policy with a -- with a union representative?

10 THE WITNESS: No.

11 HEARING OFFICER HIGLEY: Okay. To your knowledge is  
12 anybody beneath you -- does anybody beneath you have those  
13 duties?

14 THE WITNESS: No.

15 HEARING OFFICER HIGLEY: Okay. And I have a few  
16 questions. Please let me know if you don't know. I don't  
17 expect you to guess.

18 Are labor relations' meetings, meetings over union  
19 contracts, are those recorded?

20 THE WITNESS: I don't know.

21 HEARING OFFICER HIGLEY: Okay. Okay. I don't have any  
22 further questions. Does the Employer?

23 MR. TRIMMER: No.

24 HEARING OFFICER HIGLEY: Okay. Does the Petitioner?

25 MR. SOTO: No.

1 HEARING OFFICER HIGLEY: Okay. Sir, thank you for your  
2 time. Let's go off the record.

3 (Off the record at 10:50 a.m.)

4 MR. TRIMMER: Just a second.

5 HEARING OFFICER HIGLEY: Sure let's go off the record.

6 (Off the record at 10:59 a.m.)

7 HEARING OFFICER HIGLEY: All right. Mr. Trimmer, is your  
8 next witness prepared --

9 MR. TRIMMER: Yes.

10 HEARING OFFICER HIGLEY: -- present?

11 MR. TRIMMER: Yes.

12 HEARING OFFICER HIGLEY: Can you call your next witness?

13 MR. TRIMMER: The Employer calls Ray Brown. Where did he  
14 go? Can we go off the record?

15 (Off the record at 11:00 a.m.)

16 HEARING OFFICER HIGLEY: Let's go back on the record.

17 Well, good. Before we went off the record, the Employer called  
18 Mr. Brown. Will you please raise your right hand?

19 Whereupon,

20 RAYMOND BROWN

21 having been duly sworn, was called as a witness herein and was  
22 examined and testified as follows:

23 HEARING OFFICER HIGLEY: Thank you. Please have a seat.  
24 Will you spell your name -- say and spell your name for the  
25 record?

1 THE WITNESS: Raymond Brown, R-A-Y-M-O-N-D, B-R-O-W-N.

2 HEARING OFFICER HIGLEY: Thank you.

3 **DIRECT EXAMINATION**

4 Q BY MR. TRIMMER: Mr. Brown, what's your current position?

5 A I am the vice president of security at Bellagio.

6 Q To whom do you report?

7 A President Randy Morton.

8 Q How long have you been with Bellagio all totaled?

9 A All totaled? Since opening in 1998.

10 Q And how long have you been the vice president of security?

11 A The last four years.

12 Q And what was your position before that?

13 A Director of security.

14 Q How long were you the director?

15 A Six months.

16 Q And what was your position before that?

17 A Assistant director.

18 Q And how long did you hold that position?

19 A About a year.

20 Q And before that?

21 A Asset protection manager.

22 Q What does the -- what does the asset protection manager  
23 do?

24 A Oversaw investigations.

25 Q And how long did you hold that position?

- 1 A About a year, sir.
- 2 Q And before that?
- 3 A Shift manager.
- 4 Q How long were you the shift manager?
- 5 A Probably about five years.
- 6 Q Think we're almost done. What was your first position at
- 7 Bellagio?
- 8 A That would be graveyard shift manager.
- 9 Q Graveyard shift. Is that all of the security experience
- 10 that you have?
- 11 A No, sir.
- 12 Q How long have you been doing security?
- 13 A Approximately 25 years.
- 14 Q What position did you hold before you came to Bellagio?
- 15 A I was the -- at the Golden Nugget, what they refer to as a
- 16 lieutenant.
- 17 Q What is the -- what did -- what did that involve? What
- 18 responsibilities did you have?
- 19 A That oversaw the operations of three shifts of security.
- 20 Q Oh, is that when Wynn sold -- owned the Golden Nugget?
- 21 A Yes, sir.
- 22 Q And then you transferred to Bellagio?
- 23 A Yes, sir.
- 24 Q I see. As the director or as the vice president of
- 25 security, what is your primary responsibility?



1 A To ensure the safety and security of the facility, the  
2 guests and the employees.

3 Q How do you provide the observation necessary to accomplish  
4 that objective?

5 A Multiple ways. We do that with security officers as well  
6 as our CCTV video.

7 Q All right. I want to talk about how your department is  
8 made up. How many security officers do you have?

9 A I have 200 officers full time and approximately 45 part  
10 time.

11 Q Those are your uniformed officers?

12 A Yes, sir.

13 Q Do you have any plain clothes officers?

14 A Yes, I do, sir.

15 Q How many do you have?

16 A I have nine investigators, sir.

17 Q What do investigators do?

18 A They investigate issues, concerns, things that of that  
19 nature.

20 Q Okay. Well, in investigating issues, what kinds of things  
21 do they investigate?

22 A They investigate anything from fraudulent activity by  
23 patrons to employees. So --

24 Q They're responsible for those things?

25 A Everything in between.

1 Q With respect to your uniformed security officers, where  
2 are they stationed?

3 A They have a variety of posts throughout the facility.

4 Q And can you describe the different areas where they are  
5 posted?

6 A Okay. A good one would be, say, the elevator lobby.

7 That's to ensure that we keep the security of the towers so  
8 they require to have guests or patrons that are trying to enter  
9 the tower show a room key.

10 Q Is that area -- does that area near the elevator bay, does  
11 that also have video monitoring?

12 A Yes, sir, it does.

13 Q And do you have security officers stationed throughout the  
14 casino?

15 A Yes, sir, we do.

16 Q And in other nongaming areas?

17 A Yes, sir, through retail, main lobby.

18 Q How many officers are stationed outside the building?

19 A Approximately about five, approximately five.

20 Q Where are they located?

21 A They're in exec east, exec west. We have mobiles and a  
22 bike officer as well.

23 Q You said exec east and exec west?

24 A Yes, sir. We have an Executive Drive which is on the  
25 north side of our facility.

1 Q Do you have any security officers posted at say where the  
2 Bellagio driveway makes contact with Las Vegas Boulevard?

3 A No, sir.

4 Q Do you monitor that area?

5 A Yes, sir, we do.

6 Q How do you do that?

7 A Through camera, CCTV.

8 Q Do you have a security officer posted at the retail area  
9 that is close to Flamingo?

10 A We have an officer that roves that entire retail area,  
11 that is from the casino down to that area you just mentioned.

12 Q Do you have camera covers there?

13 A Yes, sir.

14 Q Do you have -- these --

15 HEARING OFFICER HIGLEY: I'm sorry. One moment. How  
16 large is that area, that retail area?

17 THE WITNESS: That retail area is approximately a hundred  
18 yards long.

19 HEARING OFFICER HIGLEY: Okay. Thanks.

20 Q BY MR. TRIMMER: In addition to the posts throughout the  
21 facility as well as in exterior areas, where else do your  
22 security officers work?

23 A They work in guest garages.

24 Q And in -- your CCTV system, where is it monitored?

25 A It is monitored in our monitor room on the mezzanine

1 level.

2 Q The monitor room, the security monitor room, where is it  
3 in relation to the surveillance monitor room?

4 A It is directly next door.

5 Q All right. Who had -- who -- if you walk into the monitor  
6 room can you describe what it looks like inside?

7 A Yes, sir. It's approximately 14 by 20. As soon as you  
8 walk in the door you have the lead who sits at a desk who has  
9 multiple monitors on the right. And then directly ahead of you  
10 you will have four stations that includes the dispatcher as  
11 well as the tower dispatch as well as the people who monitor  
12 the cameras --

13 Q So --

14 A -- in the office.

15 Q So you have four stations at which security -- well, what  
16 kinds of employees are responsible for monitoring the video  
17 feed?

18 A Security officers.

19 Q Okay. So you have -- do those security officers rotate  
20 with officers that are posted throughout the facility or are  
21 these specially-trained officers?

22 A They are specially trained, but there is a rotation.

23 Q Okay. So these officers that are station in the monitor  
24 room, how many do -- of those do you have?

25 A Per shift?

1 Q Yes.

2 A I would say probably 15.

3 Q And so you have 15 per shift?

4 A That are trained.

5 Q That are trained?

6 A Uh-huh.

7 Q And four on duty at any given time?

8 A Yes, sir.

9 Q Okay. How many security cameras do you have throughout  
10 the facility?

11 A I'd say right about 1,500.

12 Q And generally speaking what areas are covered by the  
13 security CCTV system?

14 A We cover all the perimeters as well as all the back of  
15 house hallways, retail areas, convention areas, things of that  
16 nature.

17 Q Back to the monitor room, how many screens are in front of  
18 each monitor officer?

19 A There's a total of 14 monitors that are up on the monitor  
20 wall.

21 Q Uh-huh.

22 A And there's a monitor in front of each operator.

23 Q And are the camera views on those monitors, are they  
24 always the same or do they change? How does that work?

25 A They rotate through them. One officer that's there for

1 the surveillance portion of it, his job is to actually key up  
2 and rotate through the cameras.

3 Q So he just -- he'll watch one area for a period of time --

4 A Yes, sir.

5 Q -- then go to the next, then go to the next?

6 A Yes, sir.

7 Q Okay. Are your cameras shared with any other department?

8 A Yes, sir. They're shared with surveillance.

9 Q Okay. So they -- the surveillance department utilizes  
10 their -- your system?

11 A Yes. They have the ability to see it.

12 Q And does your security department rely on the surveillance  
13 department's system?

14 A We rely on the surveillance techs to maintain our system.

15 Q Okay. I understand. Do you ever use surveillance cameras  
16 -- well, let me back up for a second. When something happens  
17 on the floor or somewhere in the casino that requires a  
18 response from your security officers, how do they become aware  
19 of the issue?

20 A That surveillance gives us a feed.

21 Q Okay. So if something is observed on video they contact  
22 you?

23 A Yes, sir.

24 Q Your officers are directed there?

25 A Yes, sir.

1 Q If it's a surveillance camera, does the feed get routed to  
2 your office?

3 A It gets routed to the monitor room.

4 Q That's what I meant. I'm sorry. And does the  
5 surveillance operator continue to monitor the action as well?

6 A The surveillance monitor does, yes.

7 Q Okay. Does the surveillance operator who observed the  
8 action in the first place or who reported the incident, does he  
9 direct -- and not supervise direct, but make your officer aware  
10 of where to go?

11 A He makes the monitor room officers aware of the direction  
12 of travel.

13 Q Okay.

14 A And then it's then relayed to the officers.

15 Q Okay. I understand.

16 HEARING OFFICER HIGLEY: Do those officers that are in the  
17 monitor room, do they rotate during their shift out on to the  
18 floor?

19 THE WITNESS: No, sir.

20 HEARING OFFICER HIGLEY: Okay. Rather there's a rotating  
21 group of officers that is stationed in the monitoring room?

22 THE WITNESS: Yes, sir.

23 HEARING OFFICER HIGLEY: Those monitoring officers, do  
24 they ever go out on to the floor?

25 THE WITNESS: Yes, they do.

1 HEARING OFFICER HIGLEY: And just not during one's shift?

2 THE WITNESS: No, sir.

3 HEARING OFFICER HIGLEY: So that is if they're there for a  
4 shift in the monitor room they stay the entire time in the  
5 monitor room?

6 THE WITNESS: Yes, sir.

7 HEARING OFFICER HIGLEY: And --

8 THE WITNESS: Unless they're going on break, sir.

9 HEARING OFFICER HIGLEY: Okay. Right. And if they're  
10 there for a shift out on the floor, they're out on the floor --

11 THE WITNESS: Yes, sir.

12 HEARING OFFICER HIGLEY: -- the entire time? How many  
13 officers are there on the floor per shift?

14 THE WITNESS: Approximately 43. It varies between shifts.

15 HEARING OFFICER HIGLEY: Okay. Can you give me the  
16 breakdown?

17 THE WITNESS: Between day swings and graves?

18 HEARING OFFICER HIGLEY: Yes, please.

19 THE WITNESS: Okay. I would say 45 would be a good number  
20 approximate on days.

21 HEARING OFFICER HIGLEY: Uh-huh.

22 THE WITNESS: Fifty-two on swings and 40 on graveyard.

23 HEARING OFFICER HIGLEY: And that's an average?

24 THE WITNESS: That I would say is good, yes.

25 HEARING OFFICER HIGLEY: Okay.



1 THE WITNESS: It varies because of call-ins, things of  
2 that nature.

3 HEARING OFFICER HIGLEY: I understand. All right. Thank  
4 you.

5 Q BY MR. TRIMMER: The officers that are using the cameras  
6 to monitor what's taking place inside the hotel and casino,  
7 what is the -- their purpose? What is their responsibility?

8 A Their responsibility is to ensure the safety and security  
9 of the facility and the guests and the employees.

10 Q And how do they accomplish that goal?

11 A They accomplish it by reviewing the video, watching that  
12 camera constantly, moving through, checking main entrances,  
13 things of that nature, ensuring the cameras are operated  
14 properly.

15 Q Does the security department employ any individuals that  
16 are responsible for the condition and operation of the camera  
17 system?

18 A No, sir.

19 Q What employees are responsible for the condition and  
20 operation of your CCTV system?

21 A We rely solely on the surveillance techs.

22 Q Okay. So can you -- well, how -- do the surveillance  
23 techs come to the security monitor room?

24 A Yes, sir, they do.

25 Q And how frequently are they there?

1 A I would say at least once a day.

2 Q And when they're in the monitor room, can you describe  
3 what they do?

4 A They'll come in. There's a camera log. So if there's an  
5 issue with a camera or with recording or anything like that  
6 it's listed on that. And that is what surveillance techs then  
7 take a look at.

8 Q Does anyone in your department install additional cameras?

9 A No, sir.

10 Q Okay. Who does that?

11 A Surveillance techs.

12 Q Is access to your monitor room controlled in some way?

13 A Yes, sir.

14 Q How is it controlled?

15 A A push button. You have to request to press the button.

16 Q What employees are permitted to access the monitor room?

17 A Security employees, as well as surveillance.

18 Q Can any member of the security department get -- come into  
19 the monitor room?

20 A Yes, sir.

21 Q Okay. And surveillance techs?

22 A Yes, sir.

23 Q Any other employees at Bellagio?

24 A The director of surveillance could access it.

25 Q Okay. When the surveillance techs are in your monitor

1 room, do they have any involvement with recording or video  
2 footage?

3 A If we're having an issue where we can't seem to get  
4 anything, yes, then we have to request their assistance.

5 Q Do they provide any training to your officers?

6 A Yes, sir.

7 Q What kind of training do they provide?

8 A They train them on the use of the Honeywell system, on how  
9 to retrieve the document -- or the video and how to utilize the  
10 cameras and how to bring them up.

11 Q Now, we talked about recording video from your system.  
12 Where is the video -- where does the video feed into from the  
13 camera? Where does it feed into?

14 A It feeds into the storage area which is the surveillance  
15 techs' area.

16 Q And does anyone in your department have access to that  
17 room?

18 A Other than myself, no.

19 Q Only you?

20 A Yes, sir.

21 Q Okay.

22 HEARING OFFICER HIGLEY: You mentioned the entry to the  
23 monitor room is controlled by a button. Does that just call  
24 upon somebody inside the monitoring room to admit the person  
25 outside?

1 THE WITNESS: That's another -- there's somebody outside  
2 the door. And then there's a camera that is outside the door.  
3 They can visually see who it is. And if they are authorized to  
4 come in then they can either open the door or buzz the door in.

5 HEARING OFFICER HIGLEY: Okay. Is there any way outside  
6 the door to just swipe a FOB or a keycard and get in without  
7 pushing the button and being admitted?

8 THE WITNESS: Not on that door that I'm aware of.

9 HEARING OFFICER HIGLEY: Okay. So even a surveillance  
10 tech needs to request that somebody inside the room buzz him  
11 in?

12 THE WITNESS: Yes, sir.

13 HEARING OFFICER HIGLEY: Thanks.

14 Q BY MR. TRIMMER: Do surveillance techs work on the  
15 equipment in your monitor room?

16 A Yes, sir, they do.

17 Q What sort of work do they perform on the -- on your  
18 equipment?

19 A If we have a monitor that goes down, of course it's put on  
20 the log. And then they come in and they repair it or replace  
21 it.

22 Q And in addition to the CCTV system and then the equipment  
23 related to that in your monitor room, do you have any other  
24 electronic equipment in the monitor room?

25 A We have radio systems of course that's controlled by

1 Motorola.

2 Q Is there an -- is there an alarm system in there?

3 A Yes, there is.

4 Q And what is the alarm system?

5 A It's a Sapphire system. And it pretty much has all the  
6 alarms, the duress alarms throughout the -- that surround the  
7 perimeter of the facility as well as key areas of our facility.

8 Q The Sapphire system, is that another -- is that also  
9 called access control?

10 A It's access control, yes.

11 Q Okay. And who is responsible for maintaining the Sapphire  
12 system?

13 A That would be the surveillance techs.

14 Q And do you have an understanding of what kind of access  
15 they have to your Sapphire system?

16 A My understanding is they have full access.

17 Q Does anyone in your department have full access to that  
18 system?

19 A No, sir.

20 Q You don't?

21 A No, sir.

22 HEARING OFFICER HIGLEY: By access, can you silence  
23 alarms?

24 THE WITNESS: They can silence, but they can't remove or  
25 anything like that. They can't install new alarm points. They

1 can't do that.

2 HEARING OFFICER HIGLEY: Can anybody in security --

3 THE WITNESS: They can acknowledge them. They can silence  
4 it.

5 HEARING OFFICER HIGLEY: Okay. Does silencing it then cut  
6 off the transmission that the alarm is going off or does it  
7 just remove the sound?

8 THE WITNESS: It just silences it so that we can dispatch.  
9 Otherwise sometimes the alarms can be a bit loud. So that  
10 would be disruptive to us trying to transmit the locations out  
11 to the officers.

12 MR. TRIMMER: I want to interject here because I think you  
13 guys were talking about different groups of people.

14 Q BY MR. TRIMMER: You said that they can't install it and  
15 they can only silence the alarms. Who is the they you are  
16 speaking about?

17 A The officers that are assigned in the monitor.

18 Q Okay. With respect to the surveillance techs, what can --  
19 what's your understanding of what they can do with your  
20 Sapphire system?

21 A They have full access to it. They can remove the alarms  
22 completely, install new ones. They have full access.

23 Q Okay. I'm going to show you a document marked as  
24 Employer's Exhibit 6. This is a one-page document. And it  
25 says, "Be informed" on the upper left-hand corner. Well, B

1 with the Bellagio B and then informed.

2 A Uh-huh.

3 Q Do you recognize this document?

4 A Yes, sir.

5 Q What is it?

6 A It's a Bellagio company newsletter that's sent out.

7 Q At the bottom left-hand corner under the pictures it says  
8 December 2014; do you see that?

9 A Yes, sir.

10 Q What does this be informed communication concern?

11 A This is the reopening of -- the remodeling, the reopening  
12 of Tesorini, our jewelry store.

13 Q What does Tesorini sell?

14 A It sells jewelry, watches.

15 Q What kind of jewelry?

16 A Rings, bracelets.

17 Q Is it high end?

18 A Extremely high end.

19 Q Okay. And this was reopened recently, I guess?

20 A Yes, sir.

21 Q Did your department have any responsibility for this store  
22 when it reopened?

23 A Yes, sir.

24 Q And can you describe what your responsibility is?

25 A We posted an officer inside and outside of the store after

1 opening.

2 Q And in terms of designing or configuring the security  
3 provided to the store, did you play any role in that?

4 A Yes, sir.

5 Q What was your responsibility?

6 A My responsibility is working with the surveillance techs  
7 and going through the placement of cameras and the alarms and  
8 duress alarm systems.

9 Q And so you had to -- were -- there were no preexisting  
10 cameras after the remodel?

11 A No, sir.

12 Q The all new -- a whole new system had to be installed?

13 A Yes, sir.

14 Q And who devised the coverage system?

15 A That would be the surveillance techs.

16 Q And they also devised the alarm system?

17 A Yes, sir.

18 Q Has Tesorini been robbed?

19 A Prior to the remodel, yes.

20 Q And can you describe what happened when it was robbed?

21 A Someone cut the glass case.

22 Q When they cut the glass case, what did they cut?

23 A Allegedly there's a uncuttable silicone gel that fits  
24 between the glass. And that was cut. The lid was lifted. And  
25 a couple of Rolex watches were taken.



1 Q Was that theft considered when you devised the new alarm  
2 system and security devices for the -- for Tesorini?

3 A Yes, sir, it was.

4 Q Okay. The alarm system in Tesorini, does it -- is that  
5 part of your Sapphire system?

6 A Yes, sir, it is.

7 Q Okay. And the cameras in Tesorini, do those feed back to  
8 your department or surveillance?

9 A My department, sir.

10 MR. TRIMMER: Okay. I ask that Employer's 6 be admitted.

11 HEARING OFFICER HIGLEY: Any objection?

12 MR. MILLION: None.

13 MR. SOTO: None.

14 HEARING OFFICER HIGLEY: All right. Employer's 6 is  
15 admitted.

16 **(Employer Exhibit Number 6 Received into Evidence)**

17 Q BY MR. TRIMMER: Is your department also responsible for  
18 providing security to the gallery of fine art?

19 A Yes, sir.

20 Q And what -- how does your department accomplish that  
21 responsibility?

22 A We have a member of our staff that's posted in there 24  
23 hours a day.

24 Q Uh-huh.

25 A Plus there is a camera as well as alarms.

1 Q And did your department install those cameras?

2 A No.

3 Q Who installed it?

4 A Surveillance techs.

5 Q And how did the -- did they also device the coverage map  
6 just like Tesorini?

7 A Yes, sir.

8 Q Is that true of anywhere -- any place where security  
9 department cameras are installed?

10 A Yes, sir.

11 Q Okay. I want to go back to the monitor room and the  
12 Honeywell system for a second. Okay? You said you have more  
13 than a thousand cameras on your system?

14 A Yes, sir.

15 Q Do all of your security officers in the monitor room have  
16 equal access to view those cameras?

17 A Yes, sir.

18 Q Okay. And who's responsible for granting them that access  
19 on the Honeywell system?

20 A That would be the surveillance techs.

21 Q Do you have the ability to do that?

22 A No, sir.

23 Q And do you have an understanding of how they grant those  
24 officers access to the cameras?

25 A No, sir.

1 Q Okay. Do you know if, for example, you need to turn --  
2 well, let me ask you a different question. From time to time  
3 do dignitaries like President Obama come to Bellagio?

4 A Yes, sir.

5 Q And when President Obama comes to Bellagio, does that have  
6 any impact on your surveillance system?

7 A Yes, sir.

8 Q Can you describe it?

9 A A very large impact. Wherever he travels we have to black  
10 out the cameras.

11 Q And who's responsible for blacking out the cameras?

12 A That would be the surveillance techs.

13 Q And is that true for if, say, Vice President Biden came to  
14 the hotel?

15 A That would be correct, sir.

16 Q Okay. Is anyone in your department allowed to black out  
17 those cameras?

18 A No, sir.

19 Q With respect to the electronic access for Honeywell, if  
20 you wished to restrict access to one of the cameras -- say, for  
21 example, you wished for the security officers in the monitor  
22 room not to be able to observe a camera that was fixed on a  
23 specific game -- how would you do that?

24 A I don't do games.

25 Q Sorry. A specific retail clerk, for example. You were --

1 you suspected that a retail clerk was stealing items. How  
2 would you go about investigating that?

3 A Basically we would do that -- we would actually get with  
4 surveillance techs so that nobody else could see what we're  
5 seeing. It would black that camera out on that end, but yet  
6 allow the investigators to still see it on their end.

7 Q I see. You just mentioned investigators. And you  
8 described earlier that their responsibility is conducting  
9 investigations into employees and potentially patrons, I  
10 assume. How often do they perform those types of  
11 investigations?

12 A Daily.

13 Q And how many of those investigations involve video  
14 surveillance?

15 A Almost all.

16 Q And do the investigators ever establish video surveillance  
17 by themselves?

18 A I'm sorry. Say again.

19 Q Do they establish any video surveillance on their own?

20 A I'm not sure what you mean by that.

21 Q Yeah. Let me ask a better question. So, for example, if  
22 an investigator was investigating a food and beverage cashier  
23 that the department suspected was stealing money from the  
24 till --

25 A Uh-huh.

1 Q -- how would an investigator conduct that investigation?

2 A That would be an easy one if it's a cashier because that's  
3 a point of sale camera. That's fixed --

4 Q Uh-huh.

5 A -- and it's not moveable. So they can't tell and nobody  
6 can tell that we're actually looking at it. But we could  
7 observe that one.

8 Q Do food and beverage cashiers have banks?

9 A I assume so.

10 Q Okay.

11 A Yes.

12 Q And, well, a bank of money?

13 A Uh-huh.

14 Q Like, when they come to work and they open up their cash  
15 drawer, do they have a bank of money?

16 A Yes, sir.

17 Q Okay. Where do they get that bank from?

18 A The satellite cage.

19 Q Okay. And a bank is for -- to make sure the record is  
20 clear, what is a bank?

21 A A bank is a zip bag approximately 12 by 8, I would say.  
22 It's got a zip on it, a lock. And that's where they carry  
23 their funds to and from their respective work area.

24 Q Okay. If they -- if a cashier was suspected of stealing  
25 money from the bank or maybe stealing money one day and then

1 putting money back in the next day to cover up the imbalance,  
2 how would an investigator investigate that kind of situation?

3 A We would follow her. If we were able to use our PTZs, we  
4 would use ours, which our downstairs from, like, the satellite  
5 bank --

6 Q Uh-huh.

7 A -- to the casino level. And once we hit casino level then  
8 we would have to require the assistance of surveillance to  
9 observe their movements --

10 Q Okay.

11 A -- through the casino.

12 Q Does your department ever get involved in investigating  
13 front desk employees?

14 A Yes, sir, we do.

15 Q Does the front desk -- is that -- is that on your security  
16 camera system?

17 A Yes, sir, it is.

18 Q Does anyone at the front desk have the ability to view the  
19 video feed for the cameras that are located there?

20 A Yes. There's three individuals that do have that  
21 capability. One is the general manager, one is the director,  
22 and one is the hotel manager. And that's for the purposes of  
23 seeing how the lines are and if they need to add manpower or  
24 personnel.

25 HEARING OFFICER HIGLEY: When you said director, did you

1 mean director of the hotel or director --

2 THE WITNESS: Director of hotel. Sorry.

3 Q BY MR. TRIMMER: And the hotel, that's a department within  
4 Bellagio? It's not the director of Bellagio, right?

5 A Not the -- right. It's director of hotel.

6 Q Yeah. What responsibilities does the hotel department  
7 have?

8 A Checking in guests.

9 Q Yeah. And running the hotel --

10 A Running the hotel.

11 Q -- operations?

12 A Uh-huh.

13 Q Okay. Where does the -- where can those three individuals  
14 you just identified observe the video feed?

15 A From their monitors at their offices.

16 Q Does your department ever require that that -- that their  
17 access be interrupted or stopped for some reason?

18 A Yes, sir.

19 Q Can you describe how that would work?

20 A If we're investigating a front clerk for potential theft  
21 of funds, in order for us to adequately investigate it we  
22 actually have the surveillance techs disconnect from in the com  
23 room their feed to those offices, the monitors.

24 Q Okay. So the -- I want to make sure I understand this.

25 The surveillance techs will prevent the three front desk

1 managers that we just described --

2 A Uh-huh.

3 Q -- from having access to the video feed of the front desk  
4 area?

5 A Yes, sir.

6 Q Would that turn off the cameras?

7 A No, sir. It just cuts their feed.

8 Q Okay. And then where would the feed be observable?

9 A It would be observable still in the security monitor room  
10 or investigations room.

11 Q Okay. And why would you need to cut off the feed to the  
12 front desk area?

13 A Because those areas are accessible by the line employees.  
14 And the last thing we want to do is be conducting an  
15 investigation and a camera moving and watching and another line  
16 employee witness that.

17 Q How would one of the employees become aware that you were  
18 conducting an investigation in that way?

19 A Well, they have access to their manager. So they would  
20 walk back to ask their manager a question. They would see the  
21 camera actually zooming in and following an employee during our  
22 covert acts. And of course that would give up the  
23 investigation.

24 Q So the cameras would -- instead of focusing on the lines,  
25 for example --



- 1 A Uh-huh.
- 2 Q -- they'd be turned around and focused on employees?
- 3 A On their banks.
- 4 Q On their banks.
- 5 A On the employees. Yes.
- 6 Q And so if someone was walking by one of these offices and
- 7 saw that the camera was focused on a bank, not on the lobby
- 8 area, they would know immediately that you were conducting an
- 9 investigation?
- 10 A That would be correct.
- 11 Q Do the surveillance technicians -- what do they tell the
- 12 managers when you turn off their video feed?
- 13 A The system is broke.
- 14 Q So they don't say we're -- look, we're conducting an
- 15 investigation?
- 16 A Absolutely not.
- 17 Q They tell them some story?
- 18 A Uh-huh.
- 19 Q Okay. Are they expected to maintain confidentiality
- 20 regarding that story?
- 21 A Yes, they are.
- 22 Q If they didn't maintain confidentiality, what effect would
- 23 that have on your investigation?
- 24 A That would have a huge effect on our investigation.
- 25 Q And can you explain why?

1 A Yeah. If it got out that we were investigating these  
2 employees, then of course they wouldn't be committing the acts.

3 Q Okay. Do your -- what other types of investigations do  
4 your investigative employees perform?

5 A Fraud. Check for fraud from patrons, thefts, employee  
6 thefts.

7 Q And do they -- can you give -- have they ever  
8 investigated, for -- or let me ask a different question. Have  
9 you heard of the phrase "integrity check?"

10 A Yes.

11 Q What's an integrity check?

12 A An integrity check is where we check the integrity of our  
13 employees.

14 Q And how do you do that?

15 A A good example would be an integrity check in a hotel  
16 room.

17 Q And can you describe what's involved in an integrity  
18 check?

19 A So, we have a kit that's basically -- was put together by  
20 the surveillance techs. And it will consist of a recording  
21 device. And then of course there's the items that we put in  
22 the room, which could be anything from a radio that the  
23 surveillance techs have installed a camera in, a teddy bear  
24 that they've installed a camera in, a painting that they've  
25 installed a camera in, a golf bag that they've installed a

1 camera in. And we place that in the room. Of course the radio  
2 is the same radio that's in the room. So we have to  
3 strategically place that. The other ones we can kind of just  
4 push around the room wherever we'd like to have them.

5 Q Does anyone in your department have the ability to install  
6 those cameras?

7 A No, sir.

8 Q Okay. So you -- the cameras are in the room. What  
9 happens next when you're conducting an integrity check?

10 A They're then -- it transmits to the room usually next  
11 door, above, or below.

12 Q And you mentioned some items that you -- are going to be,  
13 I guess, the subject of the integrity check?

14 A Yes.

15 Q Okay. Explain what actually happens when you perform an  
16 integrity check.

17 A Okay. So we'll put in clothing. We'll make the room  
18 appear that it's been lived in, put toothpaste in the sink,  
19 ruffle around the bed sheets a little bit, make sure it looks  
20 like we slept in them, go through all that. We'll hang our  
21 clothes in the closet.

22 Q Uh-huh.

23 A Put money in the pockets. Put money in the bible. Leave  
24 medications out, you know? I mean, things of that nature.

25 Q And then you watch what happens?

1 A Yes, sir. What we do when we do the integrity check, we  
2 check numerous departments, including my own.

3 Q And why do you -- what do you mean including your own?

4 A We'll request them to go up and look for a lost and found  
5 item that may have been left by a previous guest. We'll have  
6 the bell desk come up to get luggage. We'll have engineering  
7 come in to do some sort of maintenance. Of course,  
8 housekeeping that comes in and addresses the room, things of  
9 that nature.

10 Q Are the -- does your entire department -- well, let me ask  
11 a better question. These items that you've describe that  
12 contain video cameras, do you publicize what those items look  
13 like?

14 A No, sir.

15 Q So who are the -- who knows how those identify -- who can  
16 identify those items that contain cameras?

17 A The investigators and surveillance techs.

18 Q Okay. Is your department responsible for providing  
19 security to the -- well, let me ask a better question. Did  
20 your -- do you recall an investigation that your department  
21 performed on a poker dealer named Heather Freauf? I just --

22 A Oh, yes. Yes. Yes. Yes. Yes.

23 Q I'm going to show you a document that will be marked as  
24 Employer's Exhibit 7.

25 **(Employer Exhibit Number 7 Marked for Identification)**

1 Q BY MR. TRIMMER: Do you recognize this document?

2 A Yes, sir, I do.

3 Q And did you obtain this document for me?

4 A Yes, sir, I did.

5 Q Where is this document maintained?

6 A In the security investigation rooms.

7 MR. TRIMMER: I ask that Employer's 7 be admitted.

8 HEARING OFFICER HIGLEY: Any objection?

9 MR. SOTO: No.

10 HEARING OFFICER HIGLEY: Employer's 7 is admitted.

11 **(Employer Exhibit Number 7 Received into Evidence)**

12 Q BY MR. TRIMMER: Can you tell me what happened with this  
13 investigation? I guess first start out with how you became  
14 aware that this particular employee needed to be investigated.

15 A Well, we already received a number of complaints from  
16 employees that they were missing items from their -- personal  
17 items from their purses in a certain area in the poker room  
18 where they all put their bags.

19 Q And so once you became aware of this concern, what did  
20 your department do next?

21 A We placed a pin camera. Well, my department contacted the  
22 surveillance techs who installed a pin camera.

23 Q And do you recall in this situation where they placed the  
24 pin camera?

25 A It was up in the left corner, I believe it was.

1 Q And what was the result of the video surveillance that was  
2 conducted in this situation?

3 A The result was the employee, Heather Freauf, was on video  
4 going through and taking items from other employees' purses.

5 Q And does anyone in your department have the ability to  
6 install a camera in the ceiling in that way?

7 A No, sir.

8 Q So is this representative of the kinds of investigations  
9 that your department performs?

10 A Yes, sir.

11 Q And in each one of these cases, a case like this, who  
12 installs the camera?

13 A The surveillance techs.

14 Q When they're installing the cameras, do you tell them  
15 exactly where to put it? Or how do they know where to put the  
16 camera?

17 A I tell them the direction that I need to have the visual,  
18 what I need to see. And they take it from there.

19 Q Okay. So in this case -- I don't know if you remember  
20 what you told them on that -- in this incident. Well, do you?  
21 Do you remember what you told them?

22 A I know there was a certain area that I needed to see.

23 Q Uh-huh.

24 A And I needed to see it from a side angle. Because I can't  
25 be from behind them. So I needed to see basically the width of

1 that room where those items were placed. So that was their  
2 direction. And --

3 Q Do you recall if you've done these types of investigations  
4 in, say, the catwalk areas?

5 A Oh, yes.

6 Q Can you give me an example of an investigation that was  
7 performed in the catwalk areas?

8 A Yes, sir. I had an engineer -- engineering came to me and  
9 said they had an engineer that was disappearing on occasions  
10 and his time was unaccounted for. They requested that they --  
11 well, they thought that he may be going up to the catwalk  
12 system and hanging out in that area. So we got with the  
13 surveillance techs and they installed cameras.

14 Q And when they installed this camera, who knew about the  
15 placement of the camera?

16 A Just the surveillance techs.

17 Q And the video feed that came from that camera, who was  
18 aware of the video feed?

19 A The surveillance techs. Because that went actually to a  
20 small DVR that they would go -- the surveillance techs had  
21 placed in there. And they would go and retrieve that  
22 information.

23 Q Oh. So in that situation it -- the camera didn't even  
24 touch your system?

25 A No, sir.

1 Q And you said that the surveillance techs would remove  
2 something. What would they -- what did they do, exactly?

3 A It's a DVD. It just records on the DVD.

4 Q And --

5 A And then they would bring it.

6 Q Bring it down to you?

7 A Yes, sir. Or the investigators.

8 Q Okay.

9 A Uh-huh.

10 Q And is that again representative of the types of  
11 investigations that your investigators perform?

12 A Yes, sir.

13 Q And is that representative of the surveillance techs'  
14 involvements?

15 A Oh, yes, sir.

16 Q How many -- do you sometimes refer to these as special  
17 operations?

18 A Yes, sir.

19 Q And -- or specials?

20 A Specials.

21 Q And how many specials does your department perform a  
22 month?

23 A A month? One, maybe two.

24 Q Okay.

25 HEARING OFFICER HIGLEY: In these special ops do you



1 contact the techs directly or do you work through the director  
2 of surveillance?

3 THE WITNESS: I contact the techs directly, but I keep the  
4 director of surveillance informed by cc'ing him so he has  
5 notification of all these things.

6 HEARING OFFICER HIGLEY: Okay. In a case where there is  
7 no investigator actively reviewing video, in the case you  
8 stated with the issue with the engineer on the catwalk where  
9 it's going directly to a recording system, do the techs review  
10 that video or do they simply retrieve it and give it to the  
11 investigators?

12 THE WITNESS: They retrieve it and give it to the  
13 investigators.

14 HEARING OFFICER HIGLEY: Okay. Thank you.

15 Q BY MR. TRIMMER: I want to go back for a second to your  
16 monitor room and issues or malfunctions with your CCTV system.

17 A Uh-huh.

18 Q If there's a malfunction with one of your cameras, the  
19 security department cameras, who tells the surveillance techs  
20 about that?

21 A The lead security officer.

22 Q And what is -- how does that work? So how does the  
23 surveillance tech become aware of the problem and then become  
24 tasked to fix it?

25 A Well, there's limited hours that they're on property. So

1 if they're here, they'll try and contact them via phone.

2 Q Uh-huh.

3 A If they are unable to contact them, they wait until the  
4 next business day when the techs come in and review the log --

5 Q If --

6 A -- if it's logged.

7 Q I'm sorry. Do the surveillance techs -- are they  
8 responsible for sighting your cameras, for example?

9 A Yes, sir.

10 Q If there -- if a camera is out of focus or needs to be re-  
11 sighted, how does a surveillance tech communicate with your  
12 department about that?

13 A We communicate with him, tell him that we have an issue  
14 with the visual on that. And the surveillance tech with his  
15 other coworkers repairs the item.

16 Q So for example if you needed to have video coverage of the  
17 retail hallway --

18 A Uh-huh.

19 Q -- and that camera was out of focus or malfunctioning in  
20 some way, the surveillance tech -- you'd tell him to go fix it.  
21 And then would he speak directly to one of your security  
22 officers to sight the camera?

23 A More often he speaks to another surveillance tech who's  
24 upstairs --

25 Q Uh-huh.

1 A -- in our monitor room and with the security officer

2 that's in the monitor room as well.

3 Q So he's communicating with both?

4 A Both.

5 Q Okay. Does your department maintain a lost and found

6 room?

7 A Yes, sir, we do.

8 Q And how is access controlled to that room?

9 A Well, you have to be able to get beyond the counter of the  
10 security office.

11 Q Okay.

12 A So that requires you to be buzzed in. And then once you  
13 go in then we have a high-value room that has access control in  
14 there.

15 Q Okay. What kind of access control is on the high value  
16 room?

17 A That is time locks.

18 Q Time locks. You've been at Bellagio for how long, 17  
19 years?

20 A Seventeen years --

21 Q Okay.

22 A -- approximately.

23 Q Has the -- over the course of your career at Bellagio have  
24 you been involved as -- in strike planning?

25 A Yes. That was a long, long time ago. Yes.

1 Q And was your -- well, let me -- before we get into that  
2 let me ask you a different example. Do you recall that last  
3 year from time to time the culinary union performed  
4 demonstrations on Las Vegas Boulevard out in front of the  
5 Cosmopolitan?

6 A Yes, sir.

7 Q And where's the Cosmopolitan located relative to Bellagio?

8 A Directly south. They're our next door neighbors.

9 Q And when those -- can you describe what kinds of  
10 demonstrations were taking place there?

11 A They were pretty much peaceful demonstrations. However,  
12 there was a large gathering of individuals. And we were  
13 instructed that at some point that demonstration would go into  
14 the street. And of course that would affect our egress and  
15 ingress.

16 Q There was picketing and signs and --

17 A Yes, sir. Picketing and signs, yes.

18 Q Okay. When you became aware that this demonstration was  
19 planned did you take steps to ensure that you could monitor it?

20 A Yes, sir.

21 Q And what steps did you take?

22 A We placed additional officers down on Bellagio Drive and  
23 Las Vegas Boulevard, as well as used the marquee cameras to  
24 observe the activities in front of our facility.

25 Q And who's responsible for maintaining that marquee camera?

1 A That would be the surveillance techs.

2 Q And sighting it and all those other things that we've  
3 talked about?

4 A Yes, sir.

5 Q Okay. If you learned that there was going to be a  
6 demonstration that was focused on Bellagio and not Cosmopolitan  
7 would you be involved in preparing for that?

8 A Yes, sir.

9 Q And how would that work? What would -- what steps would  
10 you take in that regard?

11 MR. SOTO: Objection. The Cosmo is not even an MGM  
12 property.

13 HEARING OFFICER HIGLEY: Yeah. Well, but his question is  
14 how the Bellagio would prepare for it, so I think it's relevant  
15 to know what kind of preparations they would go through. He's  
16 not asking with the Cosmo would do, but what Bellagio would do  
17 for that.

18 Q BY MR. TRIMMER: So I want to ask -- I asked you a  
19 question. And I know it's pending. But I want to withdraw it  
20 and ask you a different question before we get into the -- that  
21 other issue. With respect to the Cosmopolitan -- and you  
22 mentioned that if they demonstrated in the street it would  
23 interfere with access to your property? Were you concerned  
24 about making a record of any interference with access to your  
25 property?

1 MR. SOTO: Objection. That's hypothetical.

2 HEARING OFFICER HIGLEY: I think it does matter what his  
3 concern was. It goes to the security department's role in  
4 preparing for if they have mass activity, possible --

5 MR. SOTO: But it didn't happen.

6 HEARING OFFICER HIGLEY: His concern, though, getting into  
7 the planning phase is relevant to the security department's  
8 role. So understanding that it is hypothetical, a past  
9 hypothetical, it's relevant to know what the Bellagio's  
10 preparations were.

11 MR. TRIMMER: Yeah.

12 Q BY MR. TRIMMER: So did you take any steps to ensure that  
13 you would have a video record of any interference with your  
14 property?

15 A Yes, sir.

16 Q Okay. And how did you do that?

17 A Made sure that all of our cameras were operational on the  
18 marquee. Because that's the one that had the clearest line of  
19 site. So those were all operational and functional.

20 Q And who was involved in ensuring the operational  
21 capability of those cameras?

22 A The security monitor room officers as well as security  
23 techs.

24 Q Surveillance techs?

25 A Or, excuse me, surveillance techs.

1 Q Okay.

2 A I stand corrected.

3 Q Now, you mentioned that a long time ago you were involved  
4 in strike planning?

5 A Yes.

6 Q And I guess that speaks to the peaceful nature of your  
7 relationship with your -- the unions at the Bellagio. But when  
8 you were preparing for a strike, can you sort of -- can you  
9 describe what's involved in that?

10 A Yeah. You sit down with multiple departments and get an  
11 understanding of what each and everybody's roles are inclusive  
12 of surveillance, front desk.

13 Q What is the security department's role when preparing for  
14 a strike?

15 A Once again, keeping the facility, the patrons, and the  
16 employees safe.

17 Q And how does the security department do that in the event  
18 of a strike?

19 A We put additional manpower on key entry points. Both by  
20 the customers as well employees, do frequent perimeter checks,  
21 run through the cameras, the CCTV system, to ensure that all  
22 those cameras are functional and operational. And if there's  
23 any repairs, then we get ahold of the surveillance techs and  
24 have those fixed.

25 Q Are they a part of your strike preparation team, the

1 surveillance techs?

2 A I honestly couldn't answer. It's been quite a while. I  
3 would think they are, because we are going to require them to  
4 do the maintenance.

5 Q Okay. Would you be able to prepare for a strike without  
6 the surveillance techs?

7 A No.

8 Q Okay. Your security camera system -- do you have cameras  
9 located in the main entrance?

10 A Yes, sir.

11 Q And those are part of the CCTV system?

12 A Yes, sir.

13 Q Are there cameras located at the north entrance?

14 A Yes, sir.

15 Q Are those part of the security camera system?

16 A Yes, sir, they are.

17 Q Do you have any cameras that aren't on -- well, any  
18 cameras that are used in the normal course of business that are  
19 not on the security network?

20 A No, sir.

21 Q Okay. In terms of those cameras, they all record to the  
22 same place in the server room?

23 A Yes, sir.

24 Q Okay. And if there's a problem with the recordings that  
25 are -- that you have, how do you resolve a problem with a



1 recording?

2 A We contact the surveillance techs.

3 Q Okay. Are there any other employees that are shared,  
4 essentially, between the surveillance department and the  
5 security department like the surveillance techs? Let me ask a  
6 better question. Are you aware of any other employees that  
7 have dual responsibility, responsibility to both the  
8 surveillance department and responsibility to the security  
9 department?

10 A No, just the surveillance techs.

11 Q Okay.

12 HEARING OFFICER HIGLEY: Do you collaborate at the same  
13 level as you do with the surveillance techs with anybody else  
14 in the surveillance department?

15 THE WITNESS: Do I speak with -- are you referring to the  
16 operation -- surveillance operators?

17 HEARING OFFICER HIGLEY: Anybody at all.

18 THE WITNESS: Okay. Yes, I do.

19 HEARING OFFICER HIGLEY: Who's that?

20 THE WITNESS: Surveillance operators. I speak at them on  
21 occasion.

22 HEARING OFFICER HIGLEY: And what cause would you have to  
23 communicate with the surveillance operators?

24 THE WITNESS: Just general conversations, you know, going  
25 through -- go up to my control room to see if they're having

1 any issues, any concerns, and then I step next door and do the  
2 same thing.

3 HEARING OFFICER HIGLEY: Okay. Just curious. Is that a  
4 business protocol or is that -- you just want --

5 THE WITNESS: It is mine, because, you know, I have  
6 officers that are stationed in key areas like the cage. And I  
7 want to make sure that they're performing their duties and  
8 functions properly. Well, my officers that are in the monitor  
9 room can't see the cage. That is the surveillance operator  
10 side. So I go to them and just to get their input if my  
11 officers are performing their duties as they should.

12 HEARING OFFICER HIGLEY: Okay. So you, to some extent,  
13 rely on the surveillance operators to check on your employees.

14 THE WITNESS: I don't direct them to check. I just ask  
15 them to do it, you know.

16 HEARING OFFICER HIGLEY: Sure.

17 Q BY MR. TRIMMER: All right. Given that you're the vice-  
18 president of security, if you are doing this because you want  
19 to, is that a business protocol?

20 A (No verbal response).

21 Q When your surveillance -- or when you special  
22 investigators, your investigatory officers are conducting one  
23 of these special operations, is human resources involved in  
24 that?

25 A Yes.

1 Q Can you describe what human resources involvement in that  
2 kind of operation is?

3 A It's simply to notify them that we're going into a certain  
4 area to do an investigation.

5 Q Okay.

6 MR. TRIMMER: No further questions.

7 HEARING OFFICER HIGLEY: Okay. Mr. Soto, do you have any  
8 questions?

9 MR. SOTO: Yes, sir.

10 **CROSS-EXAMINATION**

11 Q BY MR. SOTO: Mr. Brown, you're the VP of security?

12 A Yes, sir, vice-president.

13 Q And you've been there how long?

14 A Since opening Bellagio.

15 Q Okay.

16 A 1990.

17 Q What type of uniforms do your guards wear?

18 A They are a maroon blazer with black slacks internally.  
19 Externally, they wear black slacks with white shirt.

20 Q Okay. What type of uniforms do the surveillance techs  
21 wear?

22 A They wear dark slacks, either dark blue or black, and then  
23 different color shirts. They have multiple color shirts, polo  
24 shirts that they wear.

25 Q Okay. Do the surveillance techs ever wear blazers?

- 1 A No, sir.
- 2 Q Do your guards carry monitors?
- 3 A No, sir.
- 4 Q Do the surveillance techs carry monitors?
- 5 A I couldn't tell you what they carry. I don't know what
- 6 the surveillance tech carries.
- 7 Q Okay. Do your guards physically move cameras?
- 8 A No, sir.
- 9 Q What would happen if you saw one of your guards physically
- 10 moving a camera?
- 11 A Disciplinary action.
- 12 Q Termination?
- 13 A Possibly.
- 14 Q Okay.
- 15 A Progressive discipline.
- 16 Q Who's allowed to touch the cameras?
- 17 A Surveillance techs.
- 18 Q Okay. Do your guards carry tools?
- 19 A Define tools.
- 20 Q Screwdrivers, wire strippers, coax crimpers.
- 21 A None of the above.
- 22 Q Screw gun.
- 23 A No, sir.
- 24 Q Who typically carries those tools?
- 25 A I don't know, sir.

1 Q Is it fair to say that the surveillance techs carry those  
2 tools?

3 A Once again, I'm not sure what they carry.

4 Q If you saw a guard stripping wire, crimping coax cables,  
5 what would happen?

6 A I don't know what crimping a coax cable is. Can you  
7 describe that a little bit better to me? I don't --

8 Q It's a tool that's used to squeeze the end part of a --  
9 let's say a -- they don't even -- it would go on the back of a  
10 camera. And you would crimp it, so that it would get  
11 connection.

12 A Okay.

13 Q So what would happen if you saw a security guard doing  
14 that?

15 A We would investigate why he was doing it.

16 Q Okay. What about stripping wire? Do you know what that  
17 is?

18 A No.

19 Q Stripping wire is when you use an actual stripper. And  
20 you strip the wire, so the copper inside the --

21 A Oh, okay.

22 Q -- wire comes out.

23 A Okay.

24 Q So if you saw a security guard stripping wire, what would  
25 happen?

1 A I would have an issue with that as well.

2 Q What about troubleshooting a camera that's malfunctioning?

3 A I would have an issue with that as well.

4 Q Is it fair to say that they would be disciplined?

5 A Could be, yes.

6 Q Terminated maybe?

7 A Progressive discipline.

8 Q Okay. When a camera is malfunctioning, can Steven order  
9 one of your security guards to fix that camera?

10 A Steven?

11 Q Oh, sorry.

12 HEARING OFFICER HIGLEY: Sorry. I think the record needs  
13 to reflect who --

14 MR. SOTO: I'm sorry. I forget his name.

15 HEARING OFFICER HIGLEY: If you want to lay a foundation  
16 by --

17 MR. SOTO: I'm sorry.

18 HEARING OFFICER HIGLEY: -- asking.

19 MR. SOTO: I'll withdraw the question.

20 THE WITNESS: Okay.

21 Q BY MR. SOTO: If Dustin --

22 A Dustin.

23 Q If Dustin were to -- if a camera were to malfunction, can  
24 Dustin ask one of your security guards to fix the camera?

25 A No.

1 Q Physically?

2 A No.

3 Q Can Dustin order one of your security guards to check on a  
4 server that's malfunctioning?

5 A No, sir.

6 HEARING OFFICER HIGLEY: Does Mr. Seibold have any  
7 authority to direct your officers?

8 THE WITNESS: He's a director within our company. I mean  
9 if he sees something out of line, he can do that. But as far  
10 as the maintenance portion of it, I would say no.

11 Q BY MR. SOTO: To your knowledge, since you've been there,  
12 has the director of surveillance ever ordered one of your  
13 security guards to fix a camera?

14 A Not to my knowledge, sir.

15 Q Do you have plain clothes officers?

16 A Yes, sir.

17 Q What's their function?

18 A Investigators.

19 Q Do they crimp or strip wire?

20 A No, sir.

21 Q Have they ever restrained an unruly guest?

22 A Yes, sir.

23 Q Have they handcuffed this unruly guest?

24 A Yes, sir.

25 Q Would a tech handcuff an unruly guest?

- 1 A Not that I'm aware of, sir.
- 2 Q Okay. Would they assist these plain clothes officers in
- 3 the restraining of these guests?
- 4 A Not that I'm aware of, sir.
- 5 Q Can Dustin Seibold ask a plain clothes officer to
- 6 physically move a camera?
- 7 A I'm sorry. Say again.
- 8 Q Can Dustin Seibold ask one of your plain clothes officers
- 9 to physically move a camera?
- 10 A No, he can't.
- 11 Q What about troubleshoot a camera that's malfunctioning?
- 12 A No.
- 13 Q What kind of training do your guards get?
- 14 A There's a 40-hour training course plus two weeks of field
- 15 training an officer.
- 16 Q Okay. Do the techs go through this training?
- 17 A No, sir.
- 18 Q Why not?
- 19 A They don't work for me, sir.
- 20 Q They don't work for you?
- 21 A No, sir.
- 22 Q So you are two different departments?
- 23 A It's the surveillance department and a security
- 24 department.
- 25 Q So two different departments?



- 1 A Yes, sir.
- 2 Q In case of an emergency, would you ever call a
- 3 surveillance tech to restrain a guest?
- 4 A In case of an emergency?
- 5 Q Yeah.
- 6 A Would I call him?
- 7 Q Uh-huh.
- 8 A No.
- 9 Q Who would you call?
- 10 A Call another security officer.
- 11 Q Why?
- 12 A Because that's what they're trained to do.
- 13 Q So it's fair to say that the techs aren't trained to
- 14 restrain guests?
- 15 A That's true.
- 16 Q Do your guards run pipe or wire?
- 17 A I have no idea what you're talking about with that.
- 18 Q Okay. So the conduit --
- 19 A I apologize. I'm not a --
- 20 Q It's okay.
- 21 A -- construction guy.
- 22 Q I understand.
- 23 A I don't know. When you guys give a question, I can't --
- 24 Q I forget. You know, I haven't done it in a while.
- 25 HEARING OFFICER HIGLEY: That's all right. It's

1 appropriate, if at any point you don't understand a term or the  
2 question itself, please ask for clarification.

3 Q BY MR. SOTO: You know, conduit is the piping that  
4 insulates the wire --

5 A Okay.

6 Q -- so people don't get electrocuted. The wire itself,  
7 it's either a cat 5, cat 6. Do your guards ever run pipe or  
8 wire?

9 A No, sir.

10 Q Okay. Do your -- do you have a parts room in your  
11 security department?

12 A No.

13 Q So do you store cat 5 cable?

14 A I don't know what cat cable is. I can't --

15 Q Okay. So it's fair to say that you don't?

16 A I don't have it in my office, no.

17 Q Do you store spare cameras?

18 A My spare cameras are stored in the surveillance techs.

19 Q Okay. So you guys don't have a parts room?

20 A Not that I'm aware of.

21 Q Do you have a -- like a tools station, where you recharge  
22 hand drills?

23 A No.

24 Q If a guard fails to restrain a guest, what would happen to  
25 that guard?

1 A Fails to restrain a guest?

2 Q Uh-huh. Let's say a guest is being unruly or cheating.

3 A Well, we'd have to investigate it. We'd have to see why.

4 Q Okay. Let's say he fails to address the issue completely,  
5 purposely avoids the situation.

6 A Purposely --

7 Q Purposely.

8 A -- avoids?

9 Q Yes.

10 A Then yes, we would be some disciplinary action.

11 Q What if a tech avoided a situation? Would he be  
12 disciplined?

13 A That would be up to the department director.

14 Q To your knowledge, has a tech ever been disciplined for  
15 not restraining a guest?

16 A Not to my knowledge.

17 Q And you've been there how long?

18 A Seventeen years.

19 Q Seventeen years.

20 HEARING OFFICER HIGLEY: If -- let's say there's a fight  
21 between two individuals on the -- in the non-gaming area of the  
22 hotel there, and a security guard is present, what if he fails  
23 to intervene in any way despite observing it? Would there be  
24 possible discipline?

25 THE WITNESS: Yes.

1 HEARING OFFICER HIGLEY: Is it his duty to intervene in a  
2 situation like that?

3 THE WITNESS: Yes, it is.

4 HEARING OFFICER HIGLEY: Okay.

5 Q BY MR. SOTO: Typically, if a guest is caught cheating,  
6 who restrains that guests?

7 A Well, it depends, you know, on the investigation. If it's  
8 observed right then and there and the individual is leaving,  
9 then there is notifications made to security where we attempt  
10 to detain the individual, we ask them to come back before we  
11 place any kind of mechanical restraints.

12 Q Okay.

13 A We're a little bit above and beyond.

14 Q Who would respond to such a situation?

15 A That would be security officers. If gaming control is on  
16 board, then gaming control would respond as well.

17 Q Do techs normally respond to situations?

18 A No, sir.

19 Q When -- earlier, you stated that, you know, plain clothes  
20 officers had handcuffed individuals. If you saw a surveillance  
21 tech handcuff an individual, what would happen?

22 A We'd go and investigate to see what's happening.

23 Q With this -- is this normal -- is this policy and  
24 procedures?

25 A That is not normal, no.

1 Q No. So it's fair to say that if a surveillance tech  
2 handcuffed or restrained someone, he'd be disciplined?

3 A That would be up to the director of surveillance.

4 Q So --

5 A But we would investigate why he was handcuffing him.

6 Q If some earlier exhibit -- I forget the number of it -- 6,  
7 Tesorini.

8 A Tesorini.

9 Q Yeah. If someone stole jewelry or a watch, who would stop  
10 them?

11 A The security officer.

12 Q Who's trained to stop them?

13 A The security officer.

14 Q Are the surveillance techs trained to stop these  
15 individuals?

16 A Not by us, sir.

17 Q What would happen if a surveillance tech were to stop a  
18 thief? Is that normal -- I'm sorry. Is it normal policy and  
19 procedure for a surveillance tech to stop a theft at Tesorini?

20 A Not normal, no.

21 Q Earlier, we talked about lockers and the cat walk.

22 A We did?

23 Q Well, with Dustin.

24 A With Dustin. Okay.

25 Q It was mentioned. If you were aware of thefts going on,

1 and you were aware that these items were stored in these locked  
2 in the cat walk, could you get access to those lockers?

3 MR. TRIMMER: Define you.

4 Q BY MR. SOTO: The vice-president of security. Would you  
5 have access to these cat walk lockers?

6 A Yes.

7 Q So if you needed to open them, you could?

8 A Yes.

9 Q So earlier, you stated that some of your guards -- or all  
10 your guards carry guns. Do some of your -- I'm sorry. Let me  
11 rephrase. Let me withdraw that question. Do your guards carry  
12 guns?

13 A No, sir.

14 Q Okay. Do your plain clothes officers carry guns?

15 A Some, sir.

16 Q Okay. Do your security guards carry handcuffs?

17 A No, sir.

18 Q Night sticks?

19 A No, sir.

20 Q Do they receive training on these weapons?

21 A Yes, sir.

22 Q Do the surveillance techs, do they receive training on  
23 handling these weapons?

24 A No, sir.

25 Q Why not?

1 A They don't -- they work for surveillance.

2 Q If you saw a tech carrying a gun, what would happen?

3 A We would confront him.

4 Q Is it fair to say that this individual would be  
5 terminated?

6 MR. TRIMMER: Calls for speculation.

7 HEARING OFFICER HIGLEY: The witness has --

8 THE WITNESS: Well, I don't know if --

9 HEARING OFFICER HIGLEY: The witness has testified that he  
10 wouldn't be in charge of surveillance employee discipline.

11 But are you aware that -- are you aware of a policy that  
12 would require termination of an unauthorized individual  
13 carrying a gun?

14 THE WITNESS: It would go through progressive discipline.  
15 Once again, it would SPI'd, and then HR is involved. And then  
16 that determination is made by HR as well as the department  
17 director. I would not be the determining factor if someone was  
18 terminated based on them carrying a weapon.

19 Q BY MR. SOTO: Okay. So you have you know -- you're not  
20 involved with labor relations as far as disciplines and  
21 terminations?

22 A No, sir.

23 Q Would a security guard physically move a camera without  
24 contacting Dustin?

25 A No.

1 Q Okay. To your knowledge, do you have cameras in your  
2 hotel towers?

3 A In a hotel tower?

4 Q Yeah.

5 A No.

6 Q In the hallways?

7 A No.

8 Q Okay. To your knowledge, do crimes happen in these  
9 hallways?

10 A Not in the hallways.

11 Q Not always? So --

12 A Not in the hallways.

13 Q Not in the hallways?

14 A Yeah. Very rare that happened in the hallways.

15 Q Okay. Would you send a tech to stand guard in these  
16 hallways?

17 A No. There's no cameras in the hallways.

18 Q Okay. So there's nothing in your hallways to protect your  
19 guests?

20 A Security officers.

21 Q Security officers.

22 A Security officers.

23 Q So --

24 A They patrol.

25 Q They patrol, correct?



- 1 A They patrol the towers.
- 2 Q Yeah. Would you send a tech to patrol the hallways?
- 3 A No, sir.
- 4 Q Why not?
- 5 A They're not a security officer.
- 6 Q Okay. Earlier, you stated that your security guards -- or
- 7 the security guards are asked to patrol the outside of the
- 8 building by your north valet, south valet, and --
- 9 A I don't have a south valet.
- 10 Q I'm sorry.
- 11 A I have a main valet.
- 12 Q Main valet. And would you ask a surveillance tech to
- 13 patrol those areas?
- 14 A I would ask a surveillance tech to check the outside
- 15 perimeter cameras.
- 16 Q No, physically patrol, walk.
- 17 A Well, you would have to physically walk to check those
- 18 outside cameras.
- 19 Q Okay.
- 20 (Counsel confer)
- 21 Q BY MR. SOTO: Let me rephrase the question. Do your
- 22 guards physically walk and patrol those outside areas?
- 23 A Yes, sir.
- 24 Q Do the techs physically walk and patrol those areas?
- 25 A Only when I ask them to take a look at the cameras.

1 Q Yeah. But do they physically patrol the areas?

2 A To check the camera, they would have to physically walk  
3 out there and check those cameras.

4 Q I know they check the cameras. But do they patrol and  
5 make sure that the guests are safe?

6 A On a regular basis?

7 Q On a regular basis.

8 A No, sir.

9 Q Okay.

10 HEARING OFFICER HIGLEY: Maybe we can define the word  
11 patrol. What's the purpose of the guards patrolling the area?

12 THE WITNESS: To ensure that the doors are secure, the  
13 perimeter doors are secure and there's no damage to the  
14 facility, there's nobody living in the trees, the bushes,  
15 things of that nature.

16 HEARING OFFICER HIGLEY: Okay. Do the techs, are they  
17 ever sent out to patrol for those same purposes?

18 THE WITNESS: No, sir.

19 HEARING OFFICER HIGLEY: Okay.

20 Q BY MR. SOTO: So, earlier, you stated that if someone were  
21 to be caught cheating, gaming control would approach these  
22 individuals, or a security guard?

23 A Security and/or gaming, yes.

24 Q Okay. Would they have any reason to call surveillance  
25 techs for assistance/help in restraining these individuals?

- 1 A No, sir.
- 2 Q Who installs the hidden cameras?
- 3 A The surveillance techs.
- 4 Q Okay. Has a camera ever malfunctioned?
- 5 A No, sir. They do a good job.
- 6 Q Okay. If a camera -- if a hidden camera were to
- 7 malfunction, who would fix that camera?
- 8 A That would be the surveillance techs.
- 9 Q Okay. Would a security guard fix that camera?
- 10 A No, sir.
- 11 Q Why not?
- 12 A We don't have the technology. We don't have the training.
- 13 Q Earlier, it was stated that Tesorini was robbed, correct?
- 14 A Yes.
- 15 Q Okay. Were the techs asked to investigate that robbery?
- 16 A I don't recall.
- 17 Q Okay. Who was asked, do you remember, to investigate that
- 18 robbery?
- 19 A They asked me.
- 20 Q Okay. Would you ask a surveillance tech for help in that
- 21 investigation?
- 22 A Only -- if we did, and I don't recall, only to help us to
- 23 gather video.
- 24 Q Okay. But physically investigate, that wouldn't happen?
- 25 A They cut the silicone on the glass.

- 1 Q Is someone standing post outside of Tesorini?
- 2 A Currently?
- 3 Q Or ever?
- 4 A Yes, for the hours of operation.
- 5 Q Yeah.
- 6 A Yeah.
- 7 Q Okay.
- 8 A 10 to 11. 10 a.m. to 11 p.m., there's an officer out
- 9 front.
- 10 Q If Dustin were to ask that individual to fix a camera,
- 11 what would happen?
- 12 A Hopefully, he would decline.
- 13 Q Okay. Why would he decline?
- 14 A Because he doesn't have the skill set to repair a camera.
- 15 Q Okay. To your knowledge, do lost and found items get
- 16 turned in to surveillance?
- 17 A No, sir.
- 18 Q Where do lost and found items get turned in to?
- 19 A Lost and found items get turn in to -- by the main cashier
- 20 cage if they're found on the casino or restaurants or the bar
- 21 areas. If it's in the tower, then it comes right down to the
- 22 GRA offices. And then it's put in a big bin and brought up to
- 23 the security office.
- 24 Q Okay. Why wouldn't these items get turned in to the
- 25 surveillance department?

- 1 A Surveillance doesn't handle lost and found.
- 2 Q Who does?
- 3 A Security handles lost and found.
- 4 Q Earlier, it was stated that Culinary had demonstrations
- 5 outside near the Bellagio. And you stated that you sent guards
- 6 out there to patrol.
- 7 A Uh-huh.
- 8 Q Did you send any surveillance techs to patrol?
- 9 A No, sir.
- 10 Q Why not?
- 11 A I didn't think I needed a surveillance tech to patrol.
- 12 Q Are they trained to patrol?
- 13 A No.
- 14 Q Okay. Why not, sir?
- 15 A They're not security officers.
- 16 Q If a crowd were to storm the Bellagio entrance --
- 17 A Uh-huh.
- 18 Q -- and you were outmanned, who would you call?
- 19 A I would call security officers.
- 20 Q Okay. Metro possibly?
- 21 A Yeah, if it got to that point. Of course.
- 22 Q Yeah. Would you call a surveillance tech?
- 23 A No.
- 24 Q Are you trained in physical force?
- 25 A No.

- 1 Q Okay. What about emergency rescue?
- 2 A AED.
- 3 Q CPR?
- 4 A CPR, yes.
- 5 Q Okay. Do the techs get the same training?
- 6 A Not that I'm aware of.
- 7 Q Okay. And why not?
- 8 A Don't know.
- 9 Q Earlier, it was stated that front desk clerks are known to
- 10 misbehave. If a front desk clerk is caught stealing, who
- 11 confronts that individual?
- 12 A That would be one of my investigators.
- 13 Q Okay. Would a tech be called to confront this individual?
- 14 A No.
- 15 Q And why is that?
- 16 A They're not investigators.
- 17 Q Are your security guards trained not to put individuals
- 18 in choke holds?
- 19 A Repeat the question.
- 20 Q Okay. Are your security guards trained in not putting
- 21 individuals or guests in choke holds?
- 22 A Yes.
- 23 Q Okay. Are the surveillance techs trained?
- 24 A I don't know what they're trained in.
- 25 Q You don't know what their training is?

1 A I don't know if they're trained in hand to hand combat or  
2 -- I couldn't tell you.  
3 Q Okay.  
4 A I would not think so.  
5 Q Okay. You would not think so?  
6 A I wouldn't think so.  
7 Q Okay. When you guys do a special ops, who watches the  
8 actual video, like the actual crime?  
9 A The security investigators.  
10 Q Okay. Are the surveillance techs involved in any way?  
11 A Only if it's -- like I said, it's that like DVR that's put  
12 off to the side because it wasn't hardwired in, then they would  
13 go and retrieve that DVD and bring them back.  
14 Q But they wouldn't sit there and investigate the crime  
15 and --  
16 A No.  
17 Q -- have input on --  
18 A No.  
19 Q -- how the thief stole?  
20 A No.  
21 Q Okay.  
22 A No.  
23 Q Why is that?  
24 A They're not investigators.  
25 Q Thank you. Earlier, you stated that you have key entry

1 points, correct?

2 A Key entry points. Are you talking key --

3 Q Are --

4 A -- or keys?

5 Q Like key entry points.

6 A A bit vague.

7 Q Important entry points.

8 A Okay. Important entry points, yes.

9 Q Okay. Which are they?

10 A They're our main, our south garage parking, our tram

11 areas, as well as north valet.

12 Q Okay. Would you -- as the VP of security, would you ask a

13 security guard to stand post at --

14 A I do.

15 Q I mean -- I'm sorry -- a surveillance tech.

16 A A surveillance tech?

17 Q Yeah.

18 A No.

19 Q Has a surveillance tech ever standed -- stood post in one

20 of these key entry areas?

21 A No, sir.

22 Q Okay. Are you aware of the CBA at your property?

23 MR. TRIMMER: Vague.

24 THE WITNESS: The what?

25 Q BY MR. SOTO: Are you -- I'm sorry. Let me withdraw the



1 question. Are you aware that there's a contract with 501 and  
2 the Bellagio at your property?

3 MR. TRIMMER: When you say contract, do you mean  
4 collective bargaining agreement?

5 MR. SOTO: Collective bargaining agreement, yes.

6 Q BY MR. SOTO: So you're not aware?

7 A I have no involvement with that.

8 Q Okay, all right. So you wouldn't be aware of the no  
9 strike no lockout close in the collective bargaining agreement?

10 A I have no knowledge of that.

11 Q Okay. You have a art gallery --

12 A Yes.

13 Q -- at the Bellagio. Okay. Would you have a surveillance  
14 tech stand guard outside of that art gallery?

15 A No.

16 Q If a Picasso or a Faberge egg were to be stolen or taken  
17 from the exhibit, who would restrain that individual?

18 A The officer that's posted inside the gallery.

19 Q Would a surveillance tech ever confront or restrain this  
20 individual?

21 A Not that I'm aware of.

22 HEARING OFFICER HIGLEY: Beyond your collaboration with  
23 surveillance techs to place or repair cameras, do you direct  
24 surveillance techs to do anything else?

25 THE WITNESS: No, sir.

1 HEARING OFFICER HIGLEY: Okay.

2 Q BY MR. SOTO: Would you put a surveillance tech to stand  
3 guard at your main cage?

4 A No, sir.

5 Q Okay. Why not?

6 A Not a security officer.

7 Q To your knowledge, has a camera ever been -- I'm sorry.  
8 Let me withdraw. If a camera is malfunctioning, would that  
9 hinder you from restraining someone that's stealing or counting  
10 cards?

11 MR. TRIMMER: Vague as to restrained. Do you mean  
12 physically grabbing a person or do you mean --

13 MR. SOTO: Yeah. Okay.

14 MR. TRIMMER: -- identifying them and finding them and  
15 stuff like that.

16 THE WITNESS: Depends on whether restraints --

17 MR. SOTO: Let me withdraw the question.

18 Q BY MR. SOTO: If someone -- if a -- let's say a fixed  
19 camera was malfunctioning and someone grabbed chips off the  
20 table. Would that hinder your security officers from  
21 restraining that individual?

22 A No.

23 Q So the cameras being blacked out wouldn't stop your  
24 security guards from doing their duties?

25 A As long as that officer was standing right there and

1     witnessed the crime. But if he didn't witness it himself, then  
2     he couldn't touch him.

3     Q     The Bellagio is a big place, correct?

4     A     Yeah, it is.

5     Q     It would be difficult to grab chips and run without  
6     someone seeing this individual running?

7     A     It's happened.

8     Q     I know it's happened.

9     A     Bellagio bandit.

10    Q     But if the techs were working on a camera system, and the  
11    cameras weren't operating correctly, it wouldn't stop your  
12    security guards from physically restraining an individual  
13    that's trying to run away?

14    A     If they witnessed them commit the crime, yes.

15    Q     Okay.

16           MR. SOTO: I have no further questions.

17           HEARING OFFICER HIGLEY: Is there any protocol or policy  
18    in place that requires an eyewitness before a security guard  
19    would intervene to, for example, stop somebody who appears to  
20    be fleeing the hotel?

21           THE WITNESS: If there's a witness and/or a victim that  
22    requests security assisting them in detaining an individual for  
23    a crime that they say has been committed, then we would assist  
24    that guest.

25           HEARING OFFICER HIGLEY: Is there any restraint on a

1 security guard for taking action without being informed? Let's  
2 say a security guard sees somebody running with what appears to  
3 be something tucked into a jacket. Can the security guard  
4 intervene without being informed that individual has something  
5 stolen?

6 THE WITNESS: He can ask him not to run through the  
7 casino.

8 HEARING OFFICER HIGLEY: Okay. Can he use physical  
9 restraint?

10 THE WITNESS: He had no knowledge of a crime being  
11 committed.

12 HEARING OFFICER HIGLEY: Okay. There must be some  
13 knowledge, either directly witnessed or reliable information.

14 THE WITNESS: Exactly.

15 HEARING OFFICER HIGLEY: Okay. Do you have -- are you  
16 able to estimate how often -- I realize these incidents may be  
17 few and far between. Hopefully, they are. How often does that  
18 information allowing the security guard to intervene come from  
19 a surveillance operator or a security operator?

20 THE WITNESS: What do you mean information? To detain?

21 HEARING OFFICER HIGLEY: Information that would allow the  
22 security officer to detain, intervene physically.

23 THE WITNESS: It happens a few times a month.

24 HEARING OFFICER HIGLEY: Okay. Are you able to tell me  
25 what portion of those incidents the information is received by

1 somebody in surveillance or one of the operators as opposed to  
2 somebody right there on the ground?

3 THE WITNESS: I couldn't.

4 HEARING OFFICER HIGLEY: Okay. But it happens maybe a few  
5 times a month?

6 THE WITNESS: Yeah.

7 HEARING OFFICER HIGLEY: Thank you.

8 Any further questions, Mr. Trimmer?

9 MR. TRIMMER: Yes, I have a couple of questions.

10 **REDIRECT EXAMINATION**

11 Q BY MR. TRIMMER: How often do -- well, the Bellagio bandit  
12 that you just described --

13 A Uh-huh.

14 Q -- how was he identified?

15 A He was actually identified about a week after the initial  
16 robbery. I had a poker dealer come to me and advise me that he  
17 had an acquaintance from the poker room, Anthony Carlio, who  
18 told him a year prior that he could rob this shithole. Just  
19 repeating what the man said.

20 Q So the bandit grabbed the chips and got away?

21 A Uh-huh.

22 Q And when he escaped, did -- was he tracked by camera?

23 A Cameras.

24 Q And what camera systems were used to track him?

25 A The surveillance CCTV cameras as well as the security.

1 Q And if the Bellagio bandit was running through the casino  
2 and no one personally observed -- well, no security officer  
3 personally observed the man take the chips, and the security  
4 officer who saw him running had no personal knowledge that the  
5 man had taken chips --

6 A Uh-huh.

7 Q -- would it be true that the security department would  
8 rely on the video monitoring system to have a basis for  
9 intervening?

10 A Surveillance does have a radio.

11 Q Uh-huh.

12 A They have a direct line to security. They can hear our  
13 transmission. And if need be, they can come up online and sit  
14 there and say hey, this guy has got a gun and he's running from  
15 north valet. Our officers are instructed not to be heroes but  
16 to be good witnesses.

17 Q Okay. So the man, if he is running with a gun, you  
18 wouldn't intervene in that?

19 A No.

20 Q If he's running with chips and surveillance identified the  
21 taking of that chips through video observation --

22 A Uh-huh.

23 Q -- that would be a basis for your officers to intervene  
24 and stop him?

25 A That would be correct.

1 Q Okay. Absent eyewitness testimony from either the person  
2 who's there or from your camera system, your officers would not  
3 intervene?

4 A They don't know if a crime has been committed.

5 Q Okay. So is that yes?

6 A That's yes.

7 Q Okay. Would your investigators be able to perform the  
8 types of investigations that they conduct? Would they be able  
9 to do that without video surveillance?

10 A No. They need video surveillance.

11 Q Okay. And you were asked about your access to the  
12 surveillance lockers on the mezzanine or in the -- that contain  
13 the surveillance wiring for the system?

14 A Uh-huh.

15 Q You personally have access to that, right?

16 A Yes, I have key -- just everything.

17 Q You're the vice-president of security?

18 A Yes.

19 Q All right. Does any -- do your security officers have  
20 access to the surveillance lockers?

21 A No, sir.

22 Q Okay. And the last question I have -- or the last series  
23 of questions I have involve the relationship between your --  
24 the security department officers and the surveillance  
25 department. You were asked several times whether the director

1 of surveillance would be able to ask your security officers to  
2 perform work on cameras. If the director of surveillance  
3 identified a perpetrator running through the casino, would he  
4 be able to direct, on the radio, that he be detained?

5 A Yes.

6 Q Okay. Now he wouldn't direct your officers to -- why  
7 would he not direct your officers to fix the camera?

8 A Our officers are not trained to fix cameras.

9 Q So he could ask them if he wanted to, but it would be a  
10 foolish question, right?

11 A Yes.

12 Q Okay.

13 MR. TRIMMER: No further questions.

14 HEARING OFFICER HIGLEY: Okay. Anything more, Mr. Soto?

15 MR. SOTO: Yes, sir.

16 **RECROSS-EXAMINATION**

17 Q BY MR. SOTO: The Bellagio bandit --

18 A Uh-huh.

19 Q I forget the amount. How much was stolen? It was a  
20 pretty large amount.

21 A It was a large amount.

22 Q Over 100,000 I believe?

23 A Yeah.

24 Q Okay. So is it fair to say that even if a camera wouldn't  
25 capture the actual debt, it would be noticed?



- 1 A Say again.
- 2 Q Okay. So there was over \$100,000 stolen.
- 3 A Uh-huh.
- 4 Q Would that be noticed without camera surveillance?
- 5 A Yes.
- 6 Q If a security guard were to witness, you know, the
- 7 Bellagio bandit actually grabbing the chips, would he restrain
- 8 that individual?
- 9 A Yes.
- 10 Q Would he need help from surveillance?
- 11 A Not that I'm aware of.
- 12 Q Earlier, you were asked about the surveillance lockers.
- 13 Could you give access to your security guards to open those
- 14 lockers?
- 15 A No.
- 16 Q You couldn't?
- 17 A No.
- 18 Q Okay. But if your -- you could.
- 19 A I have a key.
- 20 Q So you could --
- 21 A Uh-huh.
- 22 Q -- if you want. If need be, you could go and open the
- 23 lockers yourself?
- 24 A Uh-huh.
- 25 Q Okay.

1 MR. SOTO: I have no further questions.

2 MR. TRIMMER: I do have one follow-up question if you  
3 wouldn't mind.

4 HEARING OFFICER HIGLEY: Sure.

5 **FURTHER REDIRECT EXAMINATION**

6 Q BY MR. TRIMMER: The Bellagio bandit, he's being  
7 prosecuted to your knowledge; is that correct?

8 A Prosecuted, done.

9 Q It's done?

10 A It is.

11 Q And that prosecution -- well, did your department provide  
12 Metro and perhaps the Clark County District Attorney's Office  
13 with video surveillance footage of the theft?

14 A Yes.

15 Q And in other situations where a theft occurs on property,  
16 do you provide Metro or the District Attorney's Office with  
17 video surveillance footage?

18 A Yes, we do.

19 Q And what's the purpose of that footage?

20 A For the Prosecution.

21 Q Okay.

22 MR. TRIMMER: No further questions.

23 HEARING OFFICER HIGLEY: Okay. Any further questions from  
24 Petitioner?

25 MR. SOTO: No, sir.

1 HEARING OFFICER HIGLEY: Okay. I do have a few final  
2 questions. One moment.

3 (Counsel confer)

4 HEARING OFFICER HIGLEY: Can you elaborate what the  
5 security officer's duty is to ensuring the security of the  
6 facility?

7 THE WITNESS: You mean -- are you talking about the  
8 security officers in the monitor room or security officers on  
9 the floor?

10 HEARING OFFICER HIGLEY: On the floor. Correct me if I'm  
11 wrong. I believe you said they have the duty -- general duty  
12 of ensuring the security -- the facility and the safety of --

13 THE WITNESS: Uh-huh.

14 HEARING OFFICER HIGLEY: -- well, I'll say individuals.

15 THE WITNESS: Uh-huh.

16 HEARING OFFICER HIGLEY: With regard to the security in  
17 the facility, what are their duties more specifically?

18 THE WITNESS: More specifically, they walk around and they  
19 ensure that the guests aren't leaving items behind. We also  
20 watch for deep -- who are prior trespassers that come in and  
21 attempt to steal from our patrons. Number of things like that  
22 as well as the safety. I mean they're constantly vigilant,  
23 looking for torn pieces of carpet, marble, broken glass,  
24 spilled liquids. So I mean there's a number of things that  
25 they're actually looking for as they're walking around.

1 HEARING OFFICER HIGLEY: Okay. Is the purpose of ensuring  
2 that there are no people who have been identified as  
3 trespassers or unsafe conditions like torn carpet, is that to  
4 protect the guests?

5 THE WITNESS: Protect them, make sure they don't get  
6 injured.

7 HEARING OFFICER HIGLEY: Okay. The facility itself, are  
8 there any instructions with regard to preventing vandalism or  
9 theft of the facility. I understand that you went to prevent  
10 people who are going to come in and pickpocket. Things like  
11 that. How about the building?

12 THE WITNESS: The building itself, yes, of course. That's  
13 part of the perimeter officer's job is to walk or ride a bike  
14 or the mobile officer who drives the truck, to make sure  
15 there's no damage done to the perimeter of the facility just as  
16 well as it is the insider officer's responsibility to make sure  
17 people aren't tagging the walls inside.

18 HEARING OFFICER HIGLEY: Are there any specific concerns  
19 that the employer has with regard to its -- aside from its  
20 guests, its structure, it's physical facility, such as the  
21 tables and flooring, its wall decorations? Is there any  
22 specific concerns or instructions that the employer has --

23 THE WITNESS: I'm not sure what --

24 HEARING OFFICER HIGLEY: -- for the security guards?

25 THE WITNESS: I'm not sure what you're asking.

1 HEARING OFFICER HIGLEY: Okay. Well, it could be that  
2 there's not a good answer. Do the security guards -- officers,  
3 do they have -- are they directed to watch for activity not  
4 relating to guest safety or guest property but the decorations  
5 on the walls of the hotel, the furniture, things like that?

6 THE WITNESS: That's all part of it, yes.

7 HEARING OFFICER HIGLEY: Okay. Does it fall under just  
8 the general observe and prevent any harm?

9 THE WITNESS: Exactly.

10 HEARING OFFICER HIGLEY: Okay. Of the roughly -- I know  
11 the number varies, 40 to 50, roughly, guards that are out in  
12 the facility during their shift. Are most of them assigned to  
13 a fixed station or are most of them patrol? Roving I believe  
14 you said.

15 THE WITNESS: They're all rotation. All positions are in  
16 a rotation. So nobody is at a post longer than two hours and  
17 15 minutes. And the first four hours you get a 30-minute  
18 break. The second four hours you get a 30-minute break as  
19 well.

20 HEARING OFFICER HIGLEY: Are those guards, when they're  
21 posted, are they expected to hold still, stand generally in one  
22 spot or do they rove?

23 THE WITNESS: No. They can walk within a few feet of an  
24 area. Like the elevator lobby officer, if he doesn't have  
25 anybody coming, he could step a little bit out, 10 feet out

1 into the main aisle way and look in the casino and look down  
2 towards the retail area. But he's not required to stand right  
3 there on that one corner. That's -- no.

4 HEARING OFFICER HIGLEY: Okay. But generally, the  
5 officers that are out on the -- in the facility, are they  
6 generally then posted in that -- like within a -- maybe 10  
7 feet?

8 THE WITNESS: Yeah. You have a section. One officer  
9 who's in -- whose job is to rove the section area in one, and  
10 then two, three, four. And then you have your main lobby  
11 officer who's -- he's designed to just rove the main lobby. We  
12 have a guy that stands in front of the Tesorinis. It's a  
13 little bit more limited. You know, he can walk a few feet off  
14 that door, but he can't walk to the other side and help  
15 somebody with the ATM, you know. So yes.

16 HEARING OFFICER HIGLEY: Okay.

17 THE WITNESS: So depending on which post it is depends on  
18 what you're restricted to.

19 HEARING OFFICER HIGLEY: Right. Did the officers maintain  
20 a log during their workday of what they observe?

21 THE WITNESS: No, sir.

22 HEARING OFFICER HIGLEY: Okay. And the only time they  
23 would form some kind of written report would be if an incident  
24 occurred that merited attention?

25 THE WITNESS: That's correct.

1 HEARING OFFICER HIGLEY: Okay. Are there guards posted at  
2 all of the main entrances?

3 THE WITNESS: (No verbal response).

4 HEARING OFFICER HIGLEY: Is that a yes?

5 THE WITNESS: Yes, sir.

6 HEARING OFFICER HIGLEY: Okay. Sorry. Some of your  
7 answers are fairly soft spoken and I --

8 THE WITNESS: I'm a soft spoken guy.

9 HEARING OFFICER HIGLEY: I see that. Nothing wrong with  
10 that. You talked earlier about -- not you. There was  
11 testimony earlier that you were present, I believe, to hear  
12 testimony about visiting dignitaries.

13 THE WITNESS: Uh-huh.

14 HEARING OFFICER HIGLEY: In the case where a special guest  
15 like a dignitary visits, do they often have with them  
16 bodyguards? I should say sometimes. Do you have people who  
17 are accompanied by bodyguards?

18 THE WITNESS: When outside dignitaries arrive, prior to  
19 them arriving, we get a visit from the diplomatic secret  
20 service. So we work closely with diplomatic secret service,  
21 and then we -- they deal with their secret service from that  
22 dignitary.

23 HEARING OFFICER HIGLEY: Okay. Is there any scrutiny of  
24 the people around the dignitary, around the VIP?

25 THE WITNESS: Yes.

1 HEARING OFFICER HIGLEY: What kind of scrutiny is  
2 performed?

3 THE WITNESS: Well, it depends who it is.

4 HEARING OFFICER HIGLEY: Okay. Let's say the president.

5 THE WITNESS: President. Lot of security.

6 HEARING OFFICER HIGLEY: Okay.

7 THE WITNESS: Lot of scrutiny.

8 HEARING OFFICER HIGLEY: And what's involved in that?

9 THE WITNESS: I have a prior military background. So they  
10 utilize myself. I get relatively close. I actually -- I got  
11 to operate the elevator. Yeah. So, and he talked to me for a  
12 little bit. So that was cool. So -- yeah. So every  
13 individual that's going to be within a certain few hundred feet  
14 of them, I mean anybody that's going to serve them security  
15 officers, any employee, their background checks are done, and  
16 they have to -- their social security numbers, names, all that  
17 stuff is given to the secret service, and they do a full  
18 background check. And those are the only people that are  
19 authorized to be around those dignitaries, whether it's the  
20 president or the queen of England. That's it.

21 HEARING OFFICER HIGLEY: Okay. Are those people checked  
22 for weapons, say, at the beginning of their shift? Who  
23 performs those background checks and those physical checks?

24 THE WITNESS: Secret service.

25 HEARING OFFICER HIGLEY: Okay. Is any of it coordinated



1 through the Bellagio?

2 THE WITNESS: We're standing there. They're doing the  
3 checks.

4 HEARING OFFICER HIGLEY: Okay.

5 THE WITNESS: And normally, I carry a weapon. But I have  
6 to restrict myself from carrying a weapon when a dignitary  
7 comes.

8 HEARING OFFICER HIGLEY: Okay. Are there ever times when  
9 let's say a V who's a little less I -- I'm sorry. I was trying  
10 to make that work. Slightly -- a slight less --

11 THE WITNESS: I think I know where you were going.

12 HEARING OFFICER HIGLEY: -- important person --

13 THE WITNESS: It's like Hillary.

14 (Counsel confer)

15 THE WITNESS: Okay. We're out of control here.

16 MR. TRIMMER: Not so very. He is important.

17 HEARING OFFICER HIGLEY: Is there ever a time when a  
18 slightly less important person, somebody who doesn't come with  
19 their own security -- who visits the Bellagio and relies on the  
20 Bellagio for their security?

21 THE WITNESS: We don't perform that.

22 HEARING OFFICER HIGLEY: Okay. Does the Bellagio do  
23 anything extra to ensure that these people, like celebrities,  
24 are protected?

25 THE WITNESS: We'll post people up, but we won't be their

1 personal bodyguard. If they bring their personal bodyguards,  
2 they have to report in to us. We ask them not to have weapons.  
3 They understand that they're not allowed to back people off the  
4 games or push people off when they're walking. Those are all  
5 gaming violations. And they actually sign the document to that  
6 effect.

7 HEARING OFFICER HIGLEY: Okay. Are their bodyguards  
8 scrutinized?

9 THE WITNESS: Uh-huh.

10 HEARING OFFICER HIGLEY: Okay. Are the bodyguards -- do  
11 you run background checks or frisk them?

12 THE WITNESS: No. No. They're asked to have no weapons.  
13 Hopefully, they don't. And they're asked to sign that document  
14 as well.

15 HEARING OFFICER HIGLEY: Okay. The security officers who  
16 work in a monitor room have a level four background check?

17 THE WITNESS: I could not tell you what levels they are.

18 HEARING OFFICER HIGLEY: Okay. Do you know what level any  
19 of the security officers --

20 THE WITNESS: I'm sorry. That background check is done by  
21 corporate security.

22 HEARING OFFICER HIGLEY: Okay. I don't have any further  
23 questions.

24 MR. TRIMMER: None.

25 MR. SOTO: No, sir.

1 HEARING OFFICER HIGLEY: Okay. You're excused.

2 Let's go off the record. Thank you, Mr. Brown.

3 THE WITNESS: Thank you.

4 (Off the record at 12:48 p.m.)

5 HEARING OFFICER HIGLEY: Okay. Will the Employer call the  
6 next witness?

7 MR. TRIMMER: Yes. The Employer calls Edwin Collier.

8 HEARING OFFICER HIGLEY: All right. Mr. Collier, you were  
9 -- excuse me. That was during a different proceeding. Will  
10 you please raise your right hand.  
11 Whereupon,

12 **EDWIN COLLIER**

13 having been duly sworn, was called as a witness herein and was  
14 examined and testified as follows:

15 HEARING OFFICER HIGLEY: Will you please state and spell  
16 your name for the record?

17 THE WITNESS: Edwin Collier, E-D-W-I-N-C-O-L-L-I-E-R.

18 **DIRECT EXAMINATION**

19 Q BY MR. TRIMMER: Mr. Collier, what is your current  
20 position?

21 A It's technical director for MGM Resorts International.

22 Q How long have you held that job?

23 A About three months.

24 Q And as the -- in your current position -- you just -- I  
25 can't restate the job title. I can't get it out of my mouth.

1 In your position currently, what are you responsible for?

2 A Basically, overseeing all aspects of CCTV, access control,  
3 and surveillance security systems.

4 Q So the hardware side and the software side?

5 A Correct.

6 Q Okay. And do you have personal knowledge of the hardware  
7 and software that's being used at Bellagio?

8 A Yes.

9 Q Okay. How do you have knowledge of that?

10 A Sidewalks, you know, physical visits, and dealings with  
11 the surveillance technicians.

12 Q What sort of software does Bellagio utilize for its CCTV  
13 system?

14 A Honeywell.

15 Q And what kinds of hardware -- what cameras are in use at  
16 Bellagio?

17 A As in the brand or just the types?

18 Q The types.

19 A HD fixed cameras, analog fixed cameras, PTZs, 360  
20 technology, some pinholes.

21 Q And there's also a -- are there any other hardware  
22 components of the CCTV system?

23 A As in the --

24 Q The server and the recording device?

25 A Yeah. Each property is a little different, but they have,

1 you know, fiber modules, Honeywell servers, recorders, analog  
2 video matrix, an access control system, GE.

3 Q And you're familiar with Bellagio's versions of those  
4 systems?

5 A Yes.

6 Q Okay. I want to talk first about the Honeywell system.  
7 Now what is the -- can you generally describe what the  
8 Honeywell system is?

9 A The Honeywell system, it's a recording platform. And  
10 viewing GUI for the operators to use to look at all the digital  
11 reporting that is done.

12 Q What's a GUI?

13 A Basically, it's the screen that they utilize. Their  
14 viewer --

15 Q Uh-huh.

16 A -- that they utilize in the monitor rooms to look at all  
17 the recorded video.

18 Q Okay. So the Honeywell system, I guess, processes each  
19 camera feed and makes it possible for surveillance operators  
20 and security officers to view that feed?

21 A Correct.

22 Q Okay. And then it also records the feed?

23 A Correct.

24 Q Okay. How does the recording work?

25 A Basically, a certain amount of cameras come to each

1 Honeywell server and they -- that server is attached to a big  
2 storage device. And so, they're all just recorded that way and  
3 then split up between security and surveillance.

4 Q And what employees are responsible for maintaining that  
5 system at Bellagio?

6 A Only the surveillance technicians.

7 Q And in terms of the computer maintenance, I guess, so  
8 being able to work on the system on the software side, how do  
9 the surveillance techs access the system?

10 A With their admin rights.

11 Q Okay.

12 A So they're full admin users.

13 Q And what does it mean if you have admin rights?

14 A Basically, configure, set up, install, all aspects of  
15 setting the system up and getting it, you know, ready to use by  
16 the operators.

17 Q Well, go into a little bit more detail. If you have admin  
18 rights and you want to set up a user, what does that mean?

19 A They can -- they are the super user. So they can create  
20 users. They can give admin rights. They can take rights away.  
21 They can grant access to cameras or all different aspects of  
22 the system itself.

23 Q Okay. So, for example, if the surveillance techs wanted  
24 to grant -- well, let me back up for a second. Does each user  
25 that accesses the system have to have a user profile?

1 A Yes.

2 Q Okay. So, for example, every surveillance operator has a  
3 unique system ID?

4 A Yes.

5 Q And who grants the privileges to each one of those IDs?

6 A The surveillance technicians.

7 Q Okay. And what kinds of privileges -- or what privileges  
8 does each ID need to have associated with it in order for it to  
9 be useful?

10 A Just operator access. It basically gives them access to  
11 cameras, and they're able to review the recordings.

12 Q Okay. And so, when we're talking about this access ID,  
13 this user ID, that's the surveillance operator sitting down at  
14 the station in the monitor room, logging into a computer. And  
15 then when he -- that operator logs in as, you know, Bill Jones,  
16 Bill Jones then has a menu of options available to him.

17 A Correct.

18 Q Essentially.

19 A Yes.

20 Q Okay. And what kinds of options are made available to the  
21 surveillance operator?

22 A Basically, just camera selection and review.

23 Q So he can watch camera feeds --

24 A Correct.

25 Q -- as they come in. And then he -- the surveillance

1 operator can also review recorded footage?

2 A Yes.

3 Q Okay. And can the surveillance operator manipulate the

4 recordings in any way?

5 A No.

6 Q They can extract it and burn it onto a DVD or something,

7 right?

8 A Yes.

9 Q But they can't do anything else though with it?

10 A No.

11 Q Can they delete it?

12 A No.

13 Q Okay. Could they hide it?

14 A No.

15 Q On the system. Like rename the file name or something

16 like that.

17 A The file that they burned but not the original file, no.

18 Q Okay. Now, and the surveillance techs are responsible for

19 giving the surveillance operator those rights.

20 A Correct.

21 Q Does the same hold true for a security officer that's

22 using the system in the security monitor room?

23 A Yes.

24 Q Is there any reason difference between the security

25 officer and the security monitor's room and the surveillance



1 operator and surveillance monitor room from -- in terms of what  
2 they're doing with the Honeywell system?

3 A No, other than the camera access they have.

4 Q What do you mean by that?

5 A They just -- surveillance has access to casino gaming  
6 regulated cameras and security does not.

7 Q Okay.

8 A Other than, both users are exactly the same.

9 Q Okay. Now can you compare what it means to have the admin  
10 rights? What other -- what things can the surveillance  
11 technicians do with the Honeywell system that the surveillance  
12 operators cannot do?

13 A Everything. They can, like I say, grant user access, the  
14 user configurator. They can add cameras to the system. They  
15 can stop them from recording. They can start them to record.  
16 They could change the time that they are recorded. They have  
17 full rights to do everything you can do with the Honeywell  
18 system.

19 Q When they go in and take action, so, for example, they  
20 shut off the recording device on one of the cameras, is that --  
21 is the fact that they did that published in some way? And by  
22 that, I mean does the director of surveillance receive  
23 notification that a, you know, camera 1, 2, 3, 4 is no longer  
24 recording?

25 A It depends. If they just shut it off, just the camera and

1 take the feed off, then yes. And the monitor room would know.  
2 If they were disabling the alarm and then taking the camera  
3 down, no one would know.

4 Q And how would you -- how would they disable the alarm on  
5 the camera?

6 A Within the recording device.

7 Q Okay. Would anyone know that they disabled the alarm?

8 A No.

9 Q Why not?

10 A It's a routine thing we actually do in certain areas. If  
11 we need to work on a table or a camera, we will disable it  
12 before we got out there, so no one gets a false alarm.

13 Q Okay. And with respect to the camera, you mentioned that  
14 there are digital IP cameras, there are stationary cameras, and  
15 there are pan tilt zoom cameras. What do pan tilt zoom cameras  
16 do?

17 A Basically, it's the operating -- the monitor rooms can  
18 manually pan tilt and zoom these cameras, so they could follow  
19 patrons through the casino or around the property.

20 Q How are they -- are they controlled from the surveillance  
21 monitor room?

22 A Yes.

23 Q Or the security monitor room?

24 A Correct.

25 Q Okay. Can the surveillance techs control those cameras?

1 A Yes.

2 Q And where would they do that from?

3 A The techs can control it from multiple areas, but the  
4 equipment room is the easiest place.

5 Q That's the -- also the server room?

6 A Correct.

7 Q Okay. And where are -- what other areas could they  
8 control the cameras from?

9 A They can -- I mean from either monitor room or any of the  
10 comm closets.

11 Q Okay. And why -- how can they control it from the comm  
12 closets?

13 A They can go to the closet where that PTZ feed goes to, and  
14 they could dove tie right into the data stream on it and  
15 control it from there.

16 HEARING OFFICER HIGLEY: Is the comm closet the same thing  
17 -- is it also referred to as an equipment room?

18 THE WITNESS: It's a telecommunication room, TR. It's  
19 basically just a junction spot. Earlier today, they were  
20 referred to as lockers.

21 HEARING OFFICER HIGLEY: Okay. It's the same thing as the  
22 locker.

23 THE WITNESS: A locked area is the -- technicians have  
24 access to, where the feeds come in for a splice point.

25 HEARING OFFICER HIGLEY: Okay. And can the alarms on the

1 cameras be disabled remotely?

2 THE WITNESS: Yes.

3 HEARING OFFICER HIGLEY: Okay. Can the techs do that from  
4 the same workstations in the monitor room or comm closet?

5 THE WITNESS: Yes.

6 Q BY MR. TRIMMER: So if a tech can take control of a pan  
7 tilt zoom from one of those areas, how about the digital IP  
8 cameras?

9 A Yes.

10 Q Can they do that?

11 A Sure.

12 Q And where would they do that from?

13 A Again, they could plug into the network in the comm closet  
14 or they could do it in their equipment -- the server room.

15 Q Now --

16 A Anywhere they have a workstation.

17 Q Now do -- are those the only -- well, is there -- the  
18 computer that's located in the server room, that's their  
19 dedicated computer. Could they establish other computers on  
20 property, where they would be able to perform this work?

21 A Yes.

22 Q And how would they do that?

23 A They would use a serialized fob that we -- technicians  
24 carry around to gain access into the Honeywell system. They  
25 can install the software in any corporate PC. If they have

1 this fob with them, they can essentially get into the system  
2 and configure anything they need to.

3 Q Does anyone else, to your knowledge, have possession of  
4 those fobs?

5 A No, only the surveillance technicians.

6 Q Okay. Does the director of surveillance have one of those  
7 fobs?

8 A No, he does not.

9 Q Okay.

10 HEARING OFFICER HIGLEY: Are the techs permitted to  
11 install that software on other corporate computers?

12 THE WITNESS: They would have -- if they do not have admin  
13 rights -- some have admin rights. There's certain corporate  
14 PCs. If they do not have admin rights, you can put a ticket in  
15 with IT. And there's no cross-referencing. They can have  
16 software installed, because we have it up to the corporate IT  
17 level. So --

18 Q BY MR. TRIMMER: So, for example, if they -- if a tech  
19 wanted to give that type of access to a front desk employee,  
20 for example, they would be able to install the software to  
21 access the Honeywell system and then put the fob on there. And  
22 that desk terminal would now the ability to access the  
23 surveillance system?

24 A Yes. In essence, it accesses the security system. But  
25 the configuration, yeah, you can have it do either or.

1 Q They could -- that computer terminal would now have the  
2 ability to look at almost any -- well, any camera feed?

3 A Yes.

4 Q That the surveillance techs gave that person access to?

5 A Yes.

6 Q Okay. That holds true for any computer on property?

7 A Yes.

8 Q That -- or that's -- let me put it a different way. Any  
9 computer that can log into the Bellagio internet, right?

10 A Correct.

11 Q So that could be a wireless computer too, couldn't it?

12 A I mean, in essence, yes, if it's connected to the  
13 corporate internet. But they usually are not.

14 Q Okay. Now this admin access for the Honeywell system, you  
15 said that you -- that the techs can use that to adjust the  
16 authority of other users?

17 A Yes.

18 Q Okay. Can that be used to adjust the authority of the  
19 director of surveillance?

20 A Yes.

21 Q Okay. And what could they do to his authority?

22 A Just limit his access or block him out of the system.

23 Q Would they be able to hide things from his view?

24 A Sure.

25 Q So, for example, if they -- would they be able to install

1 a camera and prevent him from knowing it was on the network?

2 A Yes.

3 Q And would that be difficult?

4 A No.

5 Q Okay. Would he have it -- does -- is there any -- would  
6 he have any notice in the -- I -- let me ask this question a  
7 different way. Once the -- a new camera is installed and added  
8 to the network, before it -- does it automatically go to  
9 everyone or does the surveillance tech have to configure that  
10 camera and assign rights to that video feed to the users?

11 A The surveillance tech has to configure that camera in the  
12 system. And then, at that time, it would go to the users that  
13 it was designated to.

14 Q So is there a notification to all users that a new camera  
15 has been assigned --

16 A No.

17 Q -- added to the system?

18 A That's a manual procedure.

19 Q So if, for example, the surveillance techs added a pinhole  
20 camera somewhere onto the network, no one would know that that  
21 camera had been added unless either the surveillance techs told  
22 them or the surveillance techs added it to the system  
23 themselves.

24 A Correct. They would have to tell someone they added it.

25 Q Okay. Would a surveillance tech -- would any individual

1 surveillance tech be able to lock out all of the other  
2 surveillance techs?

3 A Yes.

4 Q And what does lockout mean?

5 A Basically, he would take their admin account and change  
6 the password and user rights that only he would know.

7 Q And he would be able to do that with just his admin  
8 privileges?

9 A No, with everyone's.

10 Q Oh, with everyone's. Okay. If that happened, would the  
11 surveillance -- would the other surveillance techs who had lost  
12 their admin privileges, would they be able to go back into the  
13 system and restore them without the other surveillance tech?

14 A Not easily.

15 Q When you say not easily, what would it require?

16 A It would require a lot of time and effort.

17 Q Days?

18 A Most likely.

19 Q Now there's also the -- are you familiar with the access  
20 control system that's used at Bellagio?

21 A Yes.

22 Q And what kind of system is used at Bellagio?

23 A GE sapphire.

24 Q And what is the technician's level of authority over the  
25 sapphire system?



1 A Again, full admin rights.

2 Q And would they be able to do the same thing with respect  
3 to other users, change their abilities or lock them out?

4 A Yes. They grant access to people to use the system.

5 Q With their administrative rights, would they be able to  
6 issue key cards to people?

7 A Yes.

8 Q Is there -- does that system give automatic notice to  
9 anyone when a new key card has been issued?

10 A No.

11 Q If, for example, they gave themselves a secret numerical  
12 code that would allow them to open every door that had a keypad  
13 on it, would the system give the director of surveillance  
14 notification that this code had been issued?

15 A No.

16 Q Okay.

17 HEARING OFFICER HIGLEY: Are you aware of whether there is  
18 company policy that requires the techs to keep a log of who has  
19 what access?

20 THE WITNESS: There is a log within the system. So if it  
21 is requested, we can do an audit of who has access to what.

22 HEARING OFFICER HIGLEY: Would that log show, for example,  
23 if a generic user was created, just giving the name X, would  
24 that log show all the other users plus just an X?

25 THE WITNESS: Yes.

1 HEARING OFFICER HIGLEY: Is there a way of hiding a user  
2 on that log, from that log?

3 THE WITNESS: Not hiding it from the log, but I mean you  
4 could create a generic user. No one would know, you know,  
5 who's all supposed to be in here. Bellagio -- like, for  
6 example, the city center, we had close to 10,000 users.

7 Q BY MR. TRIMMER: Now at -- that's where you worked before  
8 becoming the corporate director?

9 A Correct.

10 Q Okay. And of those 10,000 people that had privileges on  
11 the access control system, how many of them had admin rights?

12 A Oh, I actually couldn't say. It would only be the  
13 surveillance technicians that have admin rights to my  
14 knowledge.

15 Q Okay. No one has those rights?

16 A And maybe the VP of security and the director of  
17 surveillance, but --

18 Q Okay.

19 A I'm not sure.

20 Q That was at city center?

21 A Well, Bellagio housed city center construction access  
22 control. And so --

23 Q Okay.

24 HEARING OFFICER HIGLEY: That was in the past. Bellagio  
25 no longer houses city center's access control?

1 THE WITNESS: Correct. They don't do city center access.  
2 There was a city center construction building and then  
3 corporate entity buildings. But yeah, now they do not. They  
4 didn't have anything to do with City Center.

5 HEARING OFFICER HIGLEY: And for the record, what is City  
6 Center?

7 THE WITNESS: City Center is one of our big complexes with  
8 ARIA Resort and Casino. It has the Mandarin Oriental, Veer  
9 Towers, Vdara, Crystals retail outlets.

10 HEARING OFFICER HIGLEY: And those are buildings that are  
11 completely separate from the Bellagio, correct?

12 THE WITNESS: Correct.

13 HEARING OFFICER HIGLEY: Are they under just common  
14 corporate ownership?

15 THE WITNESS: Under --

16 MR. TRIMMER: I object to that question to the extent it  
17 calls for a legal conclusion.

18 HEARING OFFICER HIGLEY: Okay. So there is some business  
19 association between those buildings and the businesses in those  
20 buildings and the Bellagio?

21 THE WITNESS: Yeah.

22 HEARING OFFICER HIGLEY: Same objection?

23 MR. TRIMMER: Same objection.

24 HEARING OFFICER HIGLEY: Okay. I'm just seeking to  
25 clarify the record, why there's a connection between the City

1 Center and the Bellagio.

2 MR. TRIMMER: Could we say --

3 HEARING OFFICER HIGLEY: If the Employer would propose a  
4 stipulation.

5 Q BY MR. TRIMMER: To your knowledge, this is if you know,  
6 is both City Center and -- are both City Center and Bellagio  
7 subsidiaries of the parent corporation MGM Resorts  
8 International?

9 A Yes.

10 Q Okay. Now there's also a VMS system.

11 A Bellagio does not have the Honeywell VMS.

12 Q Oh, okay. Well, I want to ask a couple other questions  
13 about how -- if a surveillance tech wished to maliciously  
14 interfere with the operation of the system, how that would  
15 work, what levels of access they would have. So, for example,  
16 if there was a protest outside, the exterior area of the  
17 Bellagio, would the surveillance techs be able to cut the video  
18 feed from the camera that was watching that protest?

19 A Yes.

20 Q Okay. Would they be allowed to -- would they have the  
21 ability to let that camera run but prevent it from recording?

22 A Yes.

23 Q Could they do it temporarily?

24 A Yes.

25 Q Would they be able to let the camera go in normal

1 operation and then, two days later, go in and delete specific  
2 periods of time in the recording stream?

3 A Sure.

4 Q No problems?

5 A It'd be bigger than taking just little bits of it, but  
6 yeah, they could definitely do that.

7 Q Okay.

8 HEARING OFFICER HIGLEY: What do you mean by it'd be  
9 bigger than taking bits?

10 THE WITNESS: Well, they can't just specifically go in and  
11 delete a couple hours of that one camera. They'd be deleting  
12 multiple hours of a few cameras on that -- within that server.

13 HEARING OFFICER HIGLEY: Okay. So the -- any erasing of  
14 records cannot be specific to a minute or an hour. It depends  
15 on the server that that information is on?

16 THE WITNESS: Right, because the data is laid down  
17 randomly. So there's no way to go in and just take that data  
18 out of the storage unit without deleting multiple cameras at  
19 any given time. But it'd be snips and pieces of video. So an  
20 operator would see oh, there's 10 minutes missing here of this  
21 camera. Oh, but there's 20 here and 30 here, an hour here. So  
22 they wouldn't know what was going on. They just know there's a  
23 problem.

24 Q BY MR. TRIMMER: But there wouldn't be any obviously  
25 malfeasance that occurred, right?

1 A No.

2 Q Okay. If, for example -- would a surveillance tech with  
3 their access rights be able to enter the executive offices at  
4 Bellagio without detection and then turn off the cameras, so  
5 there'd be no record that they were there?

6 A Yes.

7 Q And would they be able to turn off the alarms to those  
8 cameras, so the monitor room wouldn't know that the camera  
9 system wasn't operable?

10 A Yes.

11 Q Okay. Would they -- would a surveillance technician be  
12 able to work with a patron to take advantage of a table game  
13 dealer, for example?

14 A Yes.

15 Q Can you describe how that might work?

16 A He could tie into a camera of a single video and bring  
17 video and control just to him and eliminate everyone else from  
18 seeing what he's doing. And he could talk directly with  
19 someone on the floor.

20 Q Would Bellagio have any way of knowing that the  
21 surveillance tech had done that?

22 A No.

23 Q And would any other employee at Bellagio, to your  
24 knowledge, have the ability to use Honeywell in that way?

25 A No.

1 HEARING OFFICER HIGLEY: What if somebody -- what if one  
2 of the surveillance operators is sitting in the monitor room at  
3 that time and tries to view the camera that the tech has  
4 disabled? What would they see?

5 THE WITNESS: At that time, they would see a blank screen,  
6 where then they would write a work order for it.

7 Q BY MR. TRIMMER: Is it --

8 MR. TRIMMER: Oh, I'm sorry. Go ahead.

9 HEARING OFFICER HIGLEY: I'm sorry. I'm backing up a  
10 little bit. Do the techs know which server has specific  
11 information -- excuse me. Do they know which cameras go to  
12 which server?

13 THE WITNESS: Yes.

14 Q BY MR. TRIMMER: Is there a document that shows that?

15 A Yes.

16 Q What document is that?

17 A That's the camera schedule.

18 Q What does the camera schedule show?

19 A Everything about all camera feeds, the location, the  
20 casino, around the property, what closet it goes to, its splice  
21 points, what server it's on, what input it actually records on,  
22 all the details about it.

23 Q And to your knowledge, does anyone have access to the  
24 camera schedule other than the techs?

25 A No.

1 Q If someone with knowhow and who also had access to the  
2 server room was able to get a copy of that camera schedule,  
3 what would they be able to do with it?

4 A It just depends. I mean they'd just get all the knowledge  
5 of where all the cameras are located. So if they have a camera  
6 map and that, it's useful to where it's landing what closets to  
7 go to and that information.

8 Q Does the -- in order to use the Honeywell system in the  
9 way that the surveillance techs use it, do you have to have a  
10 certification?

11 A Yes.

12 Q What kind of certifications are required?

13 A A Honeywell certification in Honeywell Enterprise.

14 Q And what training is required to get that certification?

15 A It's a four-day class.

16 Q And do you know if anyone else at Bellagio has that  
17 certification?

18 A I do not.

19 Q Okay.

20 MR. TRIMMER: No further questions.

21 HEARING OFFICER HIGLEY: Okay. Mr. Soto, do you have any  
22 questions, or Mr. Million?

23 MR. SOTO: Yes, sir.

24 **CROSS-EXAMINATION**

25 Q BY MR. SOTO: Edwin, have you ever worked at the Bellagio?



1 A I have not.

2 Q But you're familiar with the system?

3 A I am.

4 Q How so?

5 A Because I work directly with the technicians on a lot of  
6 specs of their system. I actually did all the corporate  
7 ordering for all the equipment they have in.

8 Q Okay. What kind of uniforms do the techs wear?

9 A Polo shirts and pants.

10 Q Okay. What kind --

11 A As far as I know.

12 Q What kind of uniforms do the guards wear?

13 A Again, blazers and pants as far as I know.

14 Q Have you ever seen a tech wear a blazer?

15 A No.

16 MR. TRIMMER: I just don't -- I think this is pretty well  
17 established in the record. Mr. Collier didn't testify about  
18 any of the duties of security officers and things like that at  
19 the facility. I don't -- I understand that the information  
20 that he's asking about is relevant. It just seems that it's  
21 already in the record. And asking Mr. Collier about it,  
22 there's not going to be anything different.

23 HEARING OFFICER HIGLEY: There are -- Mr. Trimmer has a  
24 couple of points. Typically, on cross-examination, you're  
25 limited to the subjects that the other side has asked about.

1 And I'm wondering is there -- I -- my recollection is that this  
2 information is in the record about the uniforms. Is there a  
3 reason to ask?

4 MR. SOTO: I just want to show the difference between a  
5 tech and a security guard.

6 HEARING OFFICER HIGLEY: Is there anything that this  
7 witness can offer that you suspect the other witnesses couldn't  
8 in his response?

9 MR. SOTO: Yes. My understanding is that Mr. Collier  
10 works at several MGM properties and would be able to  
11 distinguish the differences a lot better than someone who's  
12 fixated at the Bellagio.

13 HEARING OFFICER HIGLEY: Okay. Well, really, only because  
14 we're concerned with the bargaining unit at the Bellagio, the  
15 only relevance is going to be what this unit -- the  
16 characteristics of this unit.

17 MR. SOTO: Okay.

18 HEARING OFFICER HIGLEY: You're welcome to ask, but  
19 there's going to be some limitation, in that, you're limited to  
20 what -- those subjects that --

21 MR. SOTO: Okay.

22 HEARING OFFICER HIGLEY: -- Mr. Trimmer has asked about.  
23 Because this is -- the purpose of this hearing is not -- the  
24 whole goal is to establish a record, I'm going to allow you to  
25 ask what you need to. But please try to limit it to those

1 matters that are relevant. And if it's already been  
2 established in the record, within your judgment, if there's  
3 something missing, go ahead and ask. But if it's already been  
4 established, I'd rather not have a repeat of those same  
5 questions? Unless Mr. Collier can provide a different response  
6 than some of the other witnesses.

7 MR. SOTO: I'll try not to be too redundant.

8 Q BY MR. SOTO: Mr. Collier, what is your standard operating  
9 procedure as far as giving someone admin access?

10 A Only the technicians have admin access unless one of the  
11 directors of the department request it.

12 Q Okay. If tech were to maliciously give someone admin  
13 access, what is your procedure on that? What's your policy?

14 A I mean, there is no policy on that.

15 Q There is no policy?

16 A No.

17 MR. TRIMMER: Well, I would object to the relevance of  
18 this. Mr. Collier wasn't testifying about Bellagio's policies  
19 and procedures. And in a normal situation I'd probably -- we  
20 could do voir dire and establish that he doesn't have knowledge  
21 of Bellagio's policies and procedures for discipline. Mr.  
22 Collier testified as an expert on how the Honeywell system  
23 works and the user rights of the surveillance technicians.

24 HEARING OFFICER HIGLEY: Well, he's welcome to say if he  
25 doesn't know. But I believe your direct did get into, you

1 know, questions of whether anybody would be aware if admin  
2 access were granted. And so I think it's appropriate for them  
3 to --

4 MR. TRIMMER: Okay.

5 HEARING OFFICER HIGLEY: -- inquire into it.

6 MR. SOTO: Okay.

7 HEARING OFFICER HIGLEY: Do you want to repeat the  
8 question?

9 MR. SOTO: Yeah.

10 Q BY MR. SOTO: What are your policies in regards to techs  
11 giving out admin access?

12 A Yeah.

13 MR. TRIMMER: Objection as to your policies. Whose  
14 policies?

15 Q BY MR. SOTO: The Bellagio's policy?

16 A I mean, as far as I know there's no policy in place for  
17 them to give access.

18 Q Okay.

19 HEARING OFFICER HIGLEY: Do you know that there isn't one?  
20 Or you're not aware of one?

21 THE WITNESS: I'm not aware.

22 Q BY MR. SOTO: To your knowledge, how often would a tech  
23 lock out Mr. Seibold from the system itself?

24 A I mean, as far as I know he shouldn't --

25 Q And --

1 A -- or a tech should not.

2 Q And if that were to happen, what's the outcome of it?

3 A There is no real outcome because no one would technically  
4 know. He wouldn't know that he was locked out because he uses  
5 the viewer application and doesn't get into any of the  
6 configuration tools that he has access to.

7 Q Okay. So there's no way for Mr. Seibold to know he's  
8 locked out?

9 A No. If I made him -- and if I turned it from an admin  
10 user to a standard user he would have no idea.

11 Q And what's the policy as to -- I mean, can a tech just  
12 without authorization do that?

13 A Yes.

14 Q Okay. Is that a normal procedure?

15 A It depends. I mean, it depends on how the user is --

16 Q Okay.

17 A -- that they're granting access to or taking it away from.

18 Q As the director of surveillance is that a concern of  
19 yours?

20 A Again, it depends. You know?

21 Q It depends on what?

22 A It depends on the technicians that are, you know, granting  
23 or denying access. That's something we do on a daily basis.

24 Q So is it fair to say that would be a concern?

25 A Sure.

1 Q You stated earlier that the techs are trained on a  
2 Honeywell certification for four days. Do the security guards  
3 go through this training?

4 A No.

5 Q And why not?

6 A Because this is the configuration training, so it's what  
7 the technicians need to configure and set up the system.

8 Q Okay. To your knowledge, do the security guards at the  
9 Bellagio install or configure any systems, cameras?

10 A As far as I know, no.

11 Q Okay.

12 HEARING OFFICER HIGLEY: What's your level of -- can you  
13 describe your level of familiarity with the security department  
14 as far as the security officers are concerned?

15 THE WITNESS: No. I'm not familiar with it --

16 HEARING OFFICER HIGLEY: Okay. Have --

17 THE WITNESS: -- really.

18 HEARING OFFICER HIGLEY: Have you ever worked in the  
19 security department?

20 THE WITNESS: I have not.

21 HEARING OFFICER HIGLEY: Okay.

22 Q BY MR. SOTO: Mr. Collier, can you direct any security  
23 guards?

24 A I cannot.

25 MR. TRIMMER: Where?

1 Q BY MR. SOTO: At the Bellagio?

2 A No.

3 Q To your knowledge, has a tech ever maliciously disabled a  
4 camera at the Bellagio?

5 A Not to my knowledge.

6 Q Work history with the corporation?

7 A Again, not to my knowledge.

8 Q If a tech were to maliciously disable a camera, what would  
9 happen to that tech?

10 MR. TRIMMER: That calls for speculation.

11 HEARING OFFICER HIGLEY: Do you -- are you familiar enough  
12 with policy or procedures to know what would happen to  
13 technician who maliciously disables a camera?

14 THE WITNESS: If someone was made aware of what happened,  
15 then disciplinary action would be taken.

16 Q BY MR. SOTO: Okay. To your knowledge, has a tech ever  
17 erased any important material at the Bellagio?

18 A Not that I'm aware of.

19 Q Can a security guard override the system?

20 A No.

21 Q Can a security guard give admin access?

22 A No.

23 Q Do guards input user rights?

24 A No.

25 Q Who inputs user rights?

1 A Surveillance technicians.

2 Q Okay. And why do the surveillance techs do that?

3 A Because they are the administrators of the system.

4 Q And why wouldn't a security guard do it?

5 A He's not familiar with the system to grant access. And  
6 one thing you have to do when you grant access is you have to  
7 upload that access to every server. So if they're not properly  
8 trained in the system for someone to do that, they could, you  
9 know, unknowingly lock everyone out.

10 Q Okay.

11 A So --

12 Q So it would be a concern to allow a security guard with  
13 that type of --

14 A It --

15 Q -- administrative access?

16 A Anyone untrained on the system would be a concern.

17 Q Is that why security guards aren't allowed to do it?

18 A Correct.

19 Q Earlier you stated that if a tech were to try to gain  
20 access to an executive office or HR, the control operator would  
21 know immediately, correct?

22 MR. TRIMMER: I believe that misstates his testimony.

23 MR. SOTO: I'm sorry. I'll withdraw the question.

24 Q BY MR. SOTO: How often do techs lock out other techs?

25 A It's my -- they shouldn't.



1 Q At the Bellagio? I'm sorry. At the Bellagio?

2 A To my knowledge, they shouldn't ever lock out another  
3 tech.

4 Q Okay. So it's fair to say that that never happens?

5 A To my knowledge.

6 Q And if a tech were to lock out all the other techs, what  
7 would normally happen?

8 A Again, once it was uncovered what happened then there --  
9 disciplinary action.

10 Q Are you involved in those disciplinary actions?

11 A At the Bellagio? I am not.

12 Q Okay. Do you have any say as to how or what happens to  
13 these individuals?

14 A I do not.

15 HEARING OFFICER HIGLEY: So what is your conclusion based  
16 on then that there would probably be disciplinary action? Is  
17 that based on just understanding of corporate-level policy?

18 THE WITNESS: Correct. I mean, that would be a malicious  
19 thing for him to take away everyone's access and keep it for  
20 himself, so.

21 HEARING OFFICER HIGLEY: Do --

22 THE WITNESS: There would be a reason behind that.

23 HEARING OFFICER HIGLEY: Sorry. You stated earlier that  
24 it's kind of a daily occurrence that user access is granted or  
25 revoked. Can you tell me why user access would be revoked?

1 THE WITNESS: Not on a daily basis. But it does happen  
2 where we -- you know, different departments get granted access  
3 to view video, different people. And so we're constantly  
4 updating and changing that list.

5 HEARING OFFICER HIGLEY: Okay. Would that be for the  
6 purpose of, say, allowing a department head to see surveillance  
7 in his or her department?

8 THE WITNESS: Correct. Or a fraud team on property,  
9 granting them access to certain cameras or taking access away  
10 from cameras.

11 HEARING OFFICER HIGLEY: Okay.

12 Q BY MR. SOTO: To your knowledge, what parts are used to  
13 fix let's say a server that's down or someone not being able to  
14 log in? Like, what steps are taken to fix those issues?

15 A Well, those are two really big different issues.

16 Q Okay. Can you answer the first one first?

17 A Just the server parts?

18 Q Yeah.

19 A You mean actual physical server parts?

20 Q You know, hard drives, that sort of thing?

21 A Yeah. It completely depends. There's hundreds of parts  
22 between the server and the storage device.

23 Q Okay.

24 A The biggest thing is, yeah, hard drives --

25 Q Okay.

1 A -- the power supplies.

2 Q Who's normally in charge of those parts?

3 A Surveillance technicians.

4 Q Okay. Do security guards have hard drives, software?

5 A No.

6 Q You stated earlier that a tech can pretty much make his  
7 own key?

8 A Correct.

9 Q Correct? How often does that happen?

10 A A lot of the time. We create access control prox keys for  
11 testing purposes and --

12 Q And are they maliciously used in any way?

13 A Not to my knowledge.

14 Q Okay. And if they were, normally what would be the  
15 procedure?

16 A Yeah. I wouldn't know unless it was caught and brought to  
17 my attention that something happened.

18 Q To your knowledge, has that ever happened?

19 A Not to my knowledge.

20 Q Earlier it was stated that if a protest were to take place  
21 at the Bellagio you would fixate the camera towards that  
22 protest, correct?

23 MR. TRIMMER: Is he --

24 HEARING OFFICER HIGLEY: Do you --

25 MR. TRIMMER: That's --

1 MR. SOTO: Okay.

2 MR. TRIMMER: That seems to be outside the witness's  
3 personal knowledge.

4 HEARING OFFICER HIGLEY: Yeah. Do you recall that  
5 testimony being given earlier during the hearing by another  
6 witness?

7 THE WITNESS: No, not that I would point the camera.

8 MR. SOTO: Well, I'm sorry.

9 HEARING OFFICER HIGLEY: Okay.

10 MR. SOTO: I'll withdraw the question.

11 Q BY MR. SOTO: Have you ever seen a protest at the  
12 Bellagio?

13 A No, I personally have not.

14 Q Okay. If a protest were to happen, who would be the front  
15 line supervisors or who would react to such a thing?

16 A I would assume security.

17 Q Okay.

18 HEARING OFFICER HIGLEY: How about -- I'm sorry. I'm just  
19 going to make a suggestion. I know that there are a number of  
20 questions that are going to your understanding of the roles of  
21 the employees in this. I mean, it would be helpful for the  
22 record if you don't assume or don't make a conclusion that you  
23 don't have a knowledge basis for. Just if you don't know,  
24 please answer I don't know. If you have an idea based on, you  
25 know, based on your knowledge please give it. But to keep it

1 clear about what the process is at the Employer's property it  
2 would be better for the record and our procedure here if  
3 you'd --

4 THE WITNESS: Okay.

5 HEARING OFFICER HIGLEY: -- state that, what you do and  
6 don't know.

7 MR. SOTO: All right. So should I repeat the question?

8 HEARING OFFICER HIGLEY: He answered the question.

9 MR. SOTO: Okay. I'm sorry.

10 HEARING OFFICER HIGLEY: So you can --

11 MR. SOTO: All right.

12 HEARING OFFICER HIGLEY: -- ask your next one.

13 Q BY MR. SOTO: To your knowledge, have you ever seen a  
14 protest get unruly?

15 A I have not.

16 Q Okay. If a protest were outside the Bellagio and it got  
17 unruly, as the director of surveillance would you expect your  
18 surveillance techs to go out there?

19 A I do not have any surveillance technicians.

20 Q Oh, you -- okay. All right. As a surveillance tech were  
21 you ever expected to go out there and --

22 A No.

23 Q -- restrain or confront guests?

24 A No.

25 Q Okay. Who normally does that?

1 A Security.

2 Q And why would security do that?

3 MR. TRIMMER: Calls for speculation. And it --

4 HEARING OFFICER HIGLEY: Is this -- do you know the  
5 answer?

6 THE WITNESS: That's their job description.

7 Q BY MR. SOTO: So it's fair to say that it's not in the  
8 surveillance tech job description?

9 A Correct.

10 MR. SOTO: I have no further questions.

11 HEARING OFFICER HIGLEY: Okay. Does the Employer have any  
12 other questions?

13 MR. TRIMMER: No.

14 HEARING OFFICER HIGLEY: Okay. Neither do I.

15 THE WITNESS: Awesome.

16 HEARING OFFICER HIGLEY: Sir, thank you for your time.  
17 You're excused.

18 THE WITNESS: Awesome. Thank you.

19 HEARING OFFICER HIGLEY: Okay. One matter I want to  
20 address is Employer's Exhibit 3. I apologize if this is just a  
21 problem with my own note taking. But I didn't see that it was  
22 admitted. Does the Employer, in the case that it hasn't been,  
23 wish to move to admit Employer's Exhibit 3 at this time?

24 MR. TRIMMER: Yes. Thank you, Hearing Officer. We ask  
25 that Employer's Exhibit 3 be admitted if it's not already in

1 the record.

2 HEARING OFFICER HIGLEY: Okay. And I'm going to ask the  
3 Petitioner, do you --

4 MR. SOTO: Oh.

5 HEARING OFFICER HIGLEY: -- do you have a copy of  
6 Employer's Exhibit 3?

7 MR. SOTO: Exhibit 3 is the table chart?

8 HEARING OFFICER HIGLEY: Do you have any objection to the  
9 admission of Employer's Exhibit 3?

10 MR. SOTO: No, sir.

11 HEARING OFFICER HIGLEY: Okay. It is received.

12 **(Employer Exhibit Number 3 Received into Evidence)**

13 HEARING OFFICER HIGLEY: Are there any more witnesses to  
14 be presented?

15 MR. TRIMMER: Not by the Employer.

16 HEARING OFFICER HIGLEY: Okay. Anymore -- any witnesses  
17 to be presented by the Petitioner?

18 MR. SOTO: No, sir.

19 HEARING OFFICER HIGLEY: Okay. Unless there's anything  
20 further, that concludes the presentation of evidence portion of  
21 the hearing. Is there anything further?

22 MR. TRIMMER: We have nothing further.

23 MR. SOTO: No, sir.

24 MR. TRIMMER: We would like to request to file a brief.

25 HEARING OFFICER HIGLEY: Okay. The regional director's

1 position is that briefs will not be allowed. But any argument  
2 that needs to be made does need to be presented in oral form as  
3 part of the hearing. Both parties will be allowed time to  
4 prepare their oral arguments. Let me just summarize the  
5 positions as I understand them. And I'll welcome any  
6 correction as necessary.

7 My understanding is that we came into the hearing with  
8 three issues. The first was the basis for the Employer's  
9 motion to dismiss, which was the allegation that the petition  
10 was filled out improperly and therefore invalid. The second  
11 being a challenge to the appropriateness of the unit, namely  
12 that the petition for the unit involves persons who are guards  
13 and who are confidential employees and therefore not properly  
14 represented by the Petitioner. And the third issue was the --  
15 I apologize. It was the Petitioner's problem with the attached  
16 exhibit to the Employer's position statement that set forth the  
17 voter list.

18 MR. TRIMMER: List. Yes, sir.

19 HEARING OFFICER HIGLEY: The conflict being that the  
20 Petitioner alleged that one employee who should have been  
21 included on the list was not. In that case, the regional  
22 director has already determined that that is an eligibility  
23 question and needs to be resolved if -- after any election that  
24 may take place.

25 Does that represent an accurate summary of the matters of



1 contention during the hearing?

2 MR. SOTO: Yes.

3 MR. TRIMMER: That's generally accurate. We had comments  
4 that were already on the record about it at the beginning of  
5 the hearing.

6 HEARING OFFICER HIGLEY: Okay. Now, with those has there  
7 been any change in position by either of the parties from their  
8 initially-stated positions at the beginning of the hearing?

9 MR. SOTO: No.

10 MR. TRIMMER: No.

11 HEARING OFFICER HIGLEY: Okay. Okay. As it stands, the  
12 petition states that there are four people in the unit. The  
13 voter list provided has three. The wording in the unit refers  
14 to surveillance technicians. And I'm stating that just for the  
15 record. In this case there's no possible alternate unit  
16 because the unit is comprised entirely of surveillance  
17 technicians or those who claim to be surveillance technicians.  
18 So we won't discuss an alternate unit if found by the regional  
19 director because that's not a possibility in this case.

20 Are there any outstanding motions or requests by either of  
21 the parties that I haven't addressed?

22 MR. SOTO: No.

23 MR. TRIMMER: No.

24 HEARING OFFICER HIGLEY: Okay.

25 (Court confer)

1 HEARING OFFICER HIGLEY: I'll inform the parties the  
2 estimated length of the transcript for this proceeding is  
3 roughly 250 pages. I'm informed that the normal course of  
4 preparation for a transcript is three days. If either one of  
5 the parties would like an expedited copy of the transcript they  
6 should request that before the -- my court reporter leaves.

7 MR. TRIMMER: The Employer would like to have a copy of  
8 this transcript in the normal course.

9 MR. SOTO: We would like one also.

10 HEARING OFFICER HIGLEY: Okay. Those requests should be  
11 made to -- in whatever process the court reporter has arranged  
12 with her.

13 I'd like to discuss some of the election -- excuse me,  
14 details of the election in the event that an election is  
15 ordered by the regional director. Does the Petitioner wish to  
16 waive its ten-day requirement?

17 MR. SOTO: Yes, sir.

18 HEARING OFFICER HIGLEY: Has either party's position  
19 changed with regard to the time, place, and date of the hearing  
20 as set forth in, for example, the Employer's statement of  
21 position and by the Petitioner in its petition?

22 MR. TRIMMER: No.

23 HEARING OFFICER HIGLEY: Okay. I will note that the  
24 requested date for election in the petition has already passed.  
25 And so I'd ask the Petitioner for any additional dates

1 requested.

2 MR. SOTO: We understand that the regional director has to  
3 go over the report. So we're requesting the date of June 30th  
4 or July 1st.

5 HEARING OFFICER HIGLEY: Okay. Is there a possibility of  
6 stipulating to that date?

7 MR. TRIMMER: No.

8 HEARING OFFICER HIGLEY: Okay.

9 MR. TRIMMER: And I would add that it's the Employer's  
10 position that the 30th is certainly inappropriate because not  
11 all employees are scheduled -- that are in the petition for a  
12 unit are scheduled to work that day.

13 HEARING OFFICER HIGLEY: How about July 1st?

14 MR. TRIMMER: They are scheduled to work on Wednesdays.  
15 It's still our position that that date would be inappropriate.

16 HEARING OFFICER HIGLEY: Okay. And for the record, the  
17 date proposed by the Employer was July 8th -- or on or about  
18 July 8th, I should say.

19 MR. TRIMMER: Correct.

20 HEARING OFFICER HIGLEY: Okay. And is there anything --  
21 any defining characteristic of July 8th that makes it more  
22 feasible in the Employer's view?

23 MR. TRIMMER: I'd like to add one additional fact.

24 HEARING OFFICER HIGLEY: Sure.

25 MR. TRIMMER: It's my understanding that a number of

1 employees in the petitioned-for unit are on paid time off up  
2 until July 8 or thereabouts. So we'd be concerned that any  
3 election date ordered before that time would deprive members of  
4 the unit the right to vote.

5 HEARING OFFICER HIGLEY: Okay. And with only three,  
6 possibly four people, it would be poorly attended. Okay.  
7 That's good information. Do you have -- are you able to give  
8 any more precision to that period when they will be off?

9 MR. TRIMMER: Not right now.

10 HEARING OFFICER HIGLEY: Okay. Is there any other  
11 information that the regional director should take into account  
12 in setting the date, if he does so?

13 MR. SOTO: We would just ask the regional director to  
14 abide by the new rules.

15 HEARING OFFICER HIGLEY: Okay. It looks like there is  
16 agreement on -- at least on the hours of election from 12 p.m.  
17 to 3 p.m.; is that correct?

18 MR. TRIMMER: Yes.

19 MR. SOTO: Correct.

20 HEARING OFFICER HIGLEY: Okay. And the location was --

21 MR. TRIMMER: We propose training room A.

22 HEARING OFFICER HIGLEY: Training room A. Okay. I see  
23 both parties proposed training room A, so there is agreement on  
24 that unless either party's position has changed.

25 All right. What would be the payroll -- the possible

1 payroll end dates? Would that be -- June 21st is now passed.  
2 I don't have it in front of me. What is the next payroll end  
3 date?

4 MS. MUCKLERROY: July 5th.

5 HEARING OFFICER HIGLEY: Okay. Does the Petitioner have  
6 any position on the appropriate payroll end date?

7 MR. SOTO: No, sir.

8 HEARING OFFICER HIGLEY: Okay. So it looks like the only  
9 matter in contention is really the date. We have the times,  
10 the location, and no opposition to possible payroll end dates;  
11 is that correct?

12 UNIDENTIFIED SPEAKER: That's correct.

13 MR. TRIMMER: Yes.

14 MR. SOTO: Correct.

15 HEARING OFFICER HIGLEY: Okay. Oh, does either party  
16 anticipate the need for the ballots or notice to be translated  
17 into another language?

18 MR. SOTO: No, sir.

19 MR. TRIMMER: No.

20 HEARING OFFICER HIGLEY: And I need to obtain some  
21 information about the contact person at the Employer's facility  
22 to whom notices should be transmitted.

23 MR. TRIMMER: We ask that you provide the information to  
24 her and contemporaneously provide it to counsel at the -- when  
25 you do so.

1 HEARING OFFICER HIGLEY: Okay.

2 MR. TRIMMER: The contact person is Beth Foster. And  
3 she's the director of human resources. Her phone number is  
4 702-693-8261. Her fax number is 702-693-8579. Her email  
5 address is befoster@bellagioresort.com. And her mailing  
6 address is 3600 Las Vegas Boulevard South, Las Vegas, Nevada,  
7 89109.

8 HEARING OFFICER HIGLEY: Okay. Thank you. All right.  
9 And does the Regional Director, understanding the Employer's  
10 request to have counsel contemporaneously informed, does the  
11 regional director have permission to communicate information  
12 regarding election observers, election procedures, questions of  
13 the ballot count, issues that arise during the election -- the  
14 pre-election conference, may the region communicate that  
15 directly with Ms. Foster?

16 MR. TRIMMER: Yes, assuming compliance with the condition  
17 I just stated.

18 HEARING OFFICER HIGLEY: All right. The regional director  
19 will issue a decision in this matter as soon as practical and  
20 will immediately transmit the document to the parties and their  
21 designated representatives by email, facsimile, or by overnight  
22 mail if neither an email address nor facsimile number is  
23 provided. If an election is directed, the Employer must  
24 provide the voter list. To be timely filed and served, the  
25 voter list must be received by the regional director and the

1 parties named in the direction within two business days after  
2 the issuance of the direction unless a longer period, based on  
3 extraordinary circumstances, is specified in the decision and  
4 direction of election. A certificate of service on all parties  
5 must be filed with the regional director when the voter list is  
6 filed. The region will no longer serve the voter list.

7       The Employer must submit the voter list in an electronic  
8 format approved by the general counsel unless the Employer  
9 certifies that it does not have the capacity to produce the  
10 list in the required format. The lists must be filed with  
11 common, everyday electronic file formats that can be searched.  
12 Accordingly, unless otherwise agreed to by the parties, the  
13 list must be provided in a table in a Microsoft Word file, .doc  
14 or .docx, or a file that is compatible with Microsoft Word.

15       The first column of the list must begin with each  
16 employee's last name and the list must be alphabetized overall  
17 or by department by last name. Because the list will be used  
18 during the election, the font size of the list must be the  
19 equivalent of Times New Roman ten or larger. That font does  
20 not need to be used, but the font must be that size or larger.  
21 A sample optional form for the list is provided on the NLRB  
22 website at [www.nlr.gov](http://www.nlr.gov).

23       The Board's stated that is presumptively appropriate for  
24 the Employer to produce multiple versions of the list where the  
25 data required is kept in separate databases or files so long as

1 all of the lists link the information to the same employees  
2 using the same names in the same order and are provided within  
3 the allotted time. See 79 Federal Regulation 74356. If the  
4 Employer provides multiple lists, the list used at the election  
5 will be the list containing the Employee's names and addresses.  
6 The lists must include the full names, work locations, shifts,  
7 job classifications, and contact information including home  
8 addresses, available personal email addresses, and available  
9 home and personal cellular telephone numbers of all eligible  
10 voters. The Employer must also include in a separate section  
11 of that list the same information for those individuals the  
12 parties have agreed will be permitted to vote subject to  
13 challenge or those individuals who, according to the decision  
14 and direction of election, will be permitted to vote subject to  
15 challenge.

16 Let's go off the record.

17 (Off the record at 3:03 p.m.)

18 HEARING OFFICER HIGLEY: Before we went off the record I  
19 was -- while we were off the record I gave both parties a  
20 chance to prepare oral arguments. What I neglected to do is  
21 give the parties a chance to argue their position on why or why  
22 not briefs should be permitted in this case. And I'd like to  
23 do that now, starting with the Employer.

24 MR. TRIMMER: The Employer believes that briefs should be  
25 permitted in this case because we have almost a full day of



1 hearing time. The issues involved here, the work functions of  
2 the petitioned-for employees are very complicated. And given  
3 the amount of testimony and the complicated nature of the facts  
4 we're dealing with, as well as the acronyms and -- putting all  
5 of that together to make sure that the regional director has a  
6 full and complete and accurate summary of the facts, we believe  
7 the best way to do that would be through briefing.

8 This record is just not susceptible to being adequately  
9 summarized with an oral argument, particularly under these  
10 circumstances where, although the Hearing Officer has obviously  
11 given us time to prepare for an oral argument, it doesn't give  
12 us the time to thoughtfully consider all of the issues the way  
13 that a few days to brief the matter would. So we believe that  
14 our request to file a brief should be granted. And we think it  
15 would enhance the regional director's ability to make a good  
16 decision.

17 HEARING OFFICER HIGLEY: Okay. Thank you.

18 Does the Petitioner also want to make a statement as to  
19 why briefs should or should not be filed in this case?

20 MR. SOTO: No.

21 HEARING OFFICER HIGLEY: Okay. And I should state on the  
22 record my readiness for the regional director's decision to not  
23 allow briefs in this decision -- in this matter was based on a  
24 discussion we had after yesterday's hearing which posed a lot  
25 of the same nearly identical questions as this hearing would.

1 And being apprised of those issues and also apprised by the  
2 Employer that there was a wish to file briefs in this matter, I  
3 went to the Regional Director with that request and obtained  
4 his decision at that time.

5 That said, I will now allow the parties to make their oral  
6 arguments on the record. I'll begin with the Employer.

7 MR. TRIMMER: Thank you. The modern hotel casino cannot  
8 be operated without electronic surveillance and alarm systems.  
9 Neither the surveillance department nor the security department  
10 can perform their work -- which is essentially the same work,  
11 protecting the property of the casino, protecting the property  
12 of the patrons, protecting the safety of individuals inside the  
13 casino. Neither function can be fulfilled without the  
14 surveillance system.

15 In the case of the surveillance department, the men  
16 walking on catwalks with binoculars have been replaced by  
17 hundreds of sophisticated cameras. And security is exactly the  
18 same. As the vice president of security explained, at any  
19 given time, even on a busy swing shift Saturday night, there  
20 are only 40 to 50 guards onsite. The Bellagio is an enormous  
21 hotel casino. It's premises cannot be adequately safeguarded  
22 without a closed circuit TV system. Similarly, in the case of  
23 the surveillance department, which is the department which  
24 safeguards the integrity of the gaming taking place at the  
25 hotel casino, they have no presence on the casino floor. All

1 of their surveillance activity is conducted through the means  
2 of the CCTV system.

3 The electronic access control system is similar. Both the  
4 director of surveillance and the vice president of security  
5 explained that the electronic access control locks and alarms  
6 are absolutely necessary to secure property at the hotel  
7 casino. The cage, the soft count room, the surveillance  
8 offices, the server room, executive offices, and the jewelry  
9 store are secured with these alarms and doors. Those are the  
10 most sensitive areas of the hotel casino. And they're  
11 controlled by the electronic access system.

12 And the surveillance techs are the administrators, the  
13 custodians of these systems. They are totally indispensable to  
14 the functioning of these systems. They are as responsible for  
15 and as intimately involved in protecting property and people on  
16 the premises as the surveillance operators and the security  
17 officers. And I think it's abundantly clear given the  
18 testimony in this case that any one security officer, the  
19 importance of that officer pales in comparison to the  
20 importance of the three surveillance technicians that are  
21 employed by the Employer.

22 The surveillance technicians are an extension of the  
23 surveillance and security employees. They work with them hand  
24 in hand every day, all day long to accomplish exactly the same  
25 function. While Nevada Gaming Control Regulations require that

1 the surveillance department be separate from the security  
2 department to eliminate conflict of interest, any reasonable  
3 person having heard this testimony would come to the conclusion  
4 that those two departments on an everyday basis coordinate on  
5 virtually every issue in the hotel casino that involves the  
6 protection of people or property.

7 Neither the surveillance department nor the security  
8 department could operate without the surveillance techs. And  
9 indeed, they're -- they may report to the surveillance  
10 director, but they are frequently given instructions directly  
11 by the vice president of security and they work hand in hand  
12 with the security investigators. And I'll talk about that a  
13 little bit more in a second.

14 The purpose of Section 93 of the Act is to protect both  
15 employers and employees from a situation where an employee is  
16 subject to a conflict of interest where his obligation to  
17 protect the employer is compromised by his obligation to his  
18 union and his fellow union members. The legislative history of  
19 the Taft-Hartley amendment made it clear that the legislature  
20 intended to adopt the reasoning in the Sixth Circuit's decision  
21 in NLRB versus Laughlin & Jones & Steel (sic), 154 F.2d 932.  
22 In that case, the Sixth Circuit reasoned that it would be  
23 repugnant to the Act to allow a union to represent both guard  
24 employees and non-guard employees. And after the Supreme Court  
25 reversed that decision, Congress abrogated the Supreme Court's

1 decision with a statute. It amended the NLRA and enacted  
2 Section 9(b) (3).

3 Both the director of surveillance and in particular the  
4 vice president of security testified as to the importance of  
5 the surveillance techs role in preparing for a strike, as well  
6 as in handling other disputes between employees and the  
7 company. There is no doubt that Bellagio in the event there  
8 was a strike or in the event it was required to prepare for  
9 some kind of dispute with the operating engineers, their  
10 ability to prepare for that and to sustain business activities  
11 during the strike would be eliminated if the surveillance techs  
12 were made part of the union. The purpose of keeping guards in  
13 a separate union from other employees is to allow the employer  
14 to either wholesale replace its security and function if the  
15 security guards who are unionized leave the facility or vice  
16 versa. In the event that operational employees go on strike, a  
17 core group of security employees are allowed to remain on the  
18 property -- are required to remain on the property and the  
19 employer doesn't have to suspect that their loyalty has been  
20 compromised.

21 This is the purpose of 9(b) (3). And it's well established  
22 for that reason that an employee does not have to carry a gun  
23 or actively confront patrons or coworkers in order to be a  
24 guard within the meaning of the Act. And that's really been  
25 the focus of the Union's presentation in this case, that

1 because the surveillance technicians don't carry guns, don't  
2 place people in headlocks, that that means they're not guards.  
3 But that literally -- that position has been rejected  
4 repeatedly by the Board.

5 And the last thing I want to do before going through some  
6 of the additional facts is observe the following: that the  
7 context of every workplace is different. Perhaps surveillance  
8 technicians in another location in another business might be  
9 treated differently than the surveillance technicians in a Las  
10 Vegas casino. The Bellagio is one of the largest, most  
11 sophisticated, and most elegant gaming properties in the world.  
12 To con -- operate it requires surveillance. And to operate a  
13 -- surveillance equipment, it must have surveillance  
14 technicians. It cannot conduct operations, it cannot allow for  
15 gaming without these individuals there.

16 And as you can see, in the event of a strike or some  
17 workplace dispute between the Operating Engineers and the  
18 Employer, if the surveillance technicians were allowed to  
19 participate in that strike, the amount of economic damage they  
20 could impose on the Employer would be staggering.

21 The record establishes that the surveillance technicians  
22 have everywhere access to the Bellagio hotel. They can go  
23 wherever they want as a nor -- in the normal course of  
24 business. And not only can they go wherever they want, they  
25 have the ability to give others the -- the ability to go

1 wherever they want to go. And they also have the ability to  
2 cover their tracks.

3 They have unparalleled access and responsibility to each  
4 of the electronic security systems on property. They decide  
5 who gets to see what camera feeds. They get to decide whether  
6 a camera feed is viewable at all. They can lock out literally  
7 every person on the facility and put the camera system down for  
8 the count. They also play an incredibly important frontline  
9 role in designing the sur -- the surveillance and security  
10 coverage for most of the -- most secure areas of the property.

11 You heard testimony that the Gallery of Fine Art was just  
12 redesigned. The surveillance technicians designed the new  
13 surveillance system and were responsible for installing it and  
14 are responsible for ensuring its continuous operation. And not  
15 only that, in situations where unique alarm devices are  
16 required, such as the Faberge eggs, the surveillance  
17 technicians designed that security system and installed it.

18 Now, you also heard testimony that in situations where  
19 those types of devices fail or where they didn't operate,  
20 surveillance technicians have a frontline responsibility for  
21 investigating a malfunction of the equipment in determining  
22 whether or not it malfunctioned due to malfeasance or whether  
23 it malfunctioned due to, you know, equipment failure.

24 Now, in addition, they're responsible for ensuring that on  
25 the gaming floor and other areas where there's a gaming

1 environment, that the company is able to provide surveillance  
2 coverage that satisfies gaming control board regulations. Now,  
3 in addition to the fact that that gaming control board mandated  
4 coverage protects property of the casino and patrons, it also  
5 protects the most valuable asset of the company, which is its  
6 gaming license. There is no person at the property with a more  
7 important role in the protection of that gaming license than  
8 the surveillance technicians. Certainly executives have  
9 similar importance, but there's no frontline employee that  
10 plays a more important role and in protecting that asset. And  
11 we believe that alone would be sufficient to make them guards  
12 under the Act.

13 Now, you also heard testimony -- and this is, again,  
14 undisputed -- that the surveillance technicians are the only  
15 employees with shared responsibility for the security and the  
16 surveillance operation. In fact, they have custody of the  
17 security CCTV system. It resides in their office. The servers  
18 reside in their office. And all of the recordings reside in  
19 their office. They have control over it. And they decide who  
20 gets to come in. It's also undisputed that when other  
21 individuals want to have access to that room, they're not  
22 escorted by security officers. They're escorted by  
23 surveillance techs performing a security function.

24 Now, I don't need to elaborate too much on the  
25 hypotheticals that a number of the witnesses discussed. But



1 it's clear that the surveillance techs have an unparalleled  
2 ability to engage in malfeasance that would compromise the  
3 business activities of the Employer. They can shut off camera  
4 access to everyone everywhere. They can hide cameras on the  
5 network, and they can install cameras on the network to spy or  
6 improperly surveil both other employees, as well as members of  
7 management. You heard testimony that they could install  
8 cameras inside executive offices without detection. They have  
9 the access to do it. They have the access and ability to  
10 prevent cameras from recording them while they're doing that  
11 work. And I think this is important. In the event of a  
12 strike, work stoppage or other action, they can prevent  
13 malfeasance from being discovered, being recorded or even being  
14 monitored permanently or for periods of time.

15 As Mr. Collier explained and as the director of  
16 surveillance explained and the vice president of security  
17 explained, the surveillance techs could prevent either  
18 department from being able to view video feeds from the  
19 exterior areas of the hotel. And they could prevent those  
20 feeds from being recorded -- meaning that if there was a  
21 strike, individuals who were engaged in picket line misconduct  
22 or other inappropriate misconduct, although there may be visual  
23 observation of that, there would be no video surveillance of  
24 that to prove that they engaged in a conduct of which they're  
25 accused.

1           There's an additional frontline surveil in security  
2   function that these surveillance technicians perform, and the  
3   vice president of security gave detailed testimony about it.  
4   He said that he has a number of plainclothes investigators who  
5   are -- whose primary -- whose, essentially, their sole function  
6   is to investigate allegations of employee misconduct and fraud.  
7   As he explained 99 percent of those investigations involved the  
8   use of video surveillance. And as he also explained, the only  
9   individuals involved in installing the cameras used for that  
10   type of activity are their surveillance techs. Whenever  
11   there's an incident of employee misconduct that requires video  
12   surveillance, the employ -- the surveillance techs know the  
13   area being surveilled, the time it's going to be surveilled,  
14   and the conduct that is going to be investigated.

15           For that reason, if -- if they were members of the same  
16   union as, say, the Operating Engineers, they would be -- they  
17   would be torn between their duty to the Union to prevent one of  
18   the -- another -- another member of the Union from being  
19   discovered engaging in misconduct and their duty to the  
20   Employer. It would -- that -- that's exactly what the purpose  
21   of 9(b)(3) is.

22           Now, although it's hypothetical, it's clear that in the  
23   event of a severe dispute between the Employer and the Union,  
24   while the employ -- while one of the surveillance techs would  
25   be subject to discipline if he engaged in such activity, he has

1 the ability to lock down the entire surveillance system and  
2 prevent the casino from operating.

3 It would stop operating for two reasons. One, it would  
4 fall out of regulatory compliance. And, two, it would not be  
5 able to protect the security of the games. It would not be  
6 able to protect its property. It would not be able to protect  
7 the cage, the soft count room. None of these areas would be  
8 protected with -- if the surveillance tech engaged in such  
9 conduct.

10 The goal of 9(b)(3) is to ensure that an employ -- an  
11 Employer that he would have planned protection during a period  
12 of un -- industrial unrest and strikes.

13 The surveillance techs would be an integral part of the  
14 security department's strike protection plan. The vice  
15 president of security explained that.

16 And I have a few more comments. The first is that, again,  
17 there's Board authority for the -- the -- the premise or the --  
18 the principle that direct confrontation is not required to  
19 establish guard status. One of those cases is Wright Memorial  
20 Hospital, which is 255 NLRB 1319. Another is MGM Grand Hotel,  
21 which is 274 NLRB 139. And we believe that that case is the  
22 case that should be used to evaluate these facts.

23 In that case the Board considered more than 30 years ago a  
24 hotel casino environment and concluded that because of the  
25 nature of electronic surveillance and the importance of the

1 electronic surveillance to the Employer's operation, that the  
2 individuals who are employed to operate and monitor and install  
3 an automated life safety fire alarm system, were guards within  
4 the Act -- within the meaning of the Act. And they reached  
5 that conclusion even though, I quote, "The operators perform no  
6 physical duties in rectifying the alarm or abnormal  
7 situations," end quote. This is what the Board said. Contrary  
8 to the Regional Director, the foregoing facts in the record as  
9 a whole, show that the J.C. 80 operators are intimately  
10 involved in the security functions and life safety procedures  
11 at the Employer's establishment. This employer has installed a  
12 vastly sophisticated life safety system encompassing myriad  
13 functions.

14 While the system operates primarily for fire detection, it  
15 performs significant security functions that the operator spend  
16 only a portion of their time monitoring such functions is  
17 immaterial in determining their status as guards under the Act.  
18 The operators of the system, which falls within the  
19 jurisdiction of the security department, serve to monitor and  
20 report possible security problems and infractions and possible  
21 life endangering situations. Employees performing similar  
22 functions have been found to be guards under the Act. The  
23 operators of the Employer's system are as closely involved in  
24 protecting the Employer's property and enforcing security, as  
25 are the Employer's plainclothes officers and uniformed guards.

1           The surveillance technician is the natural evolution of  
2   the guard function in the modern hotel casino. It requires  
3   both cameras and technology to ensure the safety of its patrons  
4   and the protection of its property in a gaming environment to  
5   ensure that those things are secure.

6           The Act -- 9(b)(3) was enacted in the 1940s. And the  
7   evolution of what constitutes a guard -- well, what constitutes  
8   a guard under the Act has evolved as business needs have  
9   changed. And in this situation, a modern hotel casino, there  
10   is no doubt that these secu -- these surveillance technicians  
11   who work every day with people who are indisputably guards --  
12   and not just work every day with them, but who take direction  
13   from, assist, and perform frontline resp -- work for security  
14   officers and surveillance operators. They're clearly guards  
15   under the Act.

16           And for the reasons, we believe that the petition should  
17   be dismissed. The unit is inappropriate because the Operating  
18   Engineers represent non-guard employees, and the surveillance  
19   technicians are guards under the Act.

20           HEARING OFFICER HIGLEY: All right. Thank you. Does the  
21   Petitioner wish to present an oral argument?

22           MR. SOTO: Yes, sir. I would like to begin by stating  
23   that the Union asked for recognition from the Employer before  
24   and after the filing of the petition. We feel that security  
25   guards are not surveillance techs. They do not carry tools,

1 run pipe or wire. They do not strip wire, crimp coax or update  
2 software. Our techs are not given the same training as the  
3 security guards are given as to physical use of force or on the  
4 training of using a handgun, handcuffs or nightsticks.

5 Also, they're -- they're two different departments. They  
6 have two different supervisors. They do not answer to the same  
7 supervisors or receive direction from the same supervisors.  
8 They do not wear the same uniforms. They do not have the same  
9 shop. They do not store parts in identical shops. In fact,  
10 they are two different areas. Security guards do not do any  
11 preventative maintenance on the cameras. They cannot fix  
12 cameras that are malfunctioning. Security guards are security  
13 guards. Surveillance techs are surveillance techs.

14 That being said, we also represent surveillance techs at  
15 other properties that the Employer is in charge of. We've had  
16 these surveillance techs for ten plus years. We have -- we  
17 haven't had any problems with surveillance techs maliciously  
18 tampering with cameras so that other employees can gain access  
19 to human resources departments, executive offices -- all the  
20 claims that the Employer said earlier.

21 There's also a no-strike no-lockout clause in our  
22 contract, which would completely -- it would show that we would  
23 not go on strike for any malicious reasons. The techs at the  
24 other properties we represent that are under our collective  
25 bargaining agreement, we've had them for ten plus years, and we

1 hope to continue to represent the techs at other properties as  
2 well.

3 Our surveillance techs are not trained to confront guests  
4 that are cheating, counting cards, stealing or that are  
5 maliciously destroying the property. Our surveillance techs do  
6 not patrol the property. Our surveillance techs are strictly  
7 for the maintenance of cameras, running pipe and wire. The  
8 qualifications of our secur -- of our surveillance techs are  
9 far different from the security guards. They do not use the  
10 same equipment to do their duties.

11 When cameras malfunction, they do not send security guards  
12 to fix these cameras. They send surveillance techs because, in  
13 fact, they are surveillance techs, not security guards, as  
14 stated by their director of security.

15 Again, our surveillance techs do not restrain people,  
16 handcuff people or carry guns. When minor incidents occur,  
17 security guards do not contact our surveillance techs to help  
18 them restrain people or use physical force. In fact, if our  
19 surveillance techs were ever caught using physical force, would  
20 be disciplined.

21 And I would also like to mention that if a security guard  
22 were to fail in restraining someone, that security guard would  
23 be disciplined, where a surveillance tech wouldn't.

24 We hope that our oral argument is -- is taken into  
25 consideration, and it proves that we do represent the

1 bargaining unit at hand, and we would like to move forward with  
2 an election. Thank you.

3 HEARING OFFICER HIGLEY: Thank you.

4 MR. TRIMMER: Hearing Officer, I didn't want --

5 HEARING OFFICER HIGLEY: Yes.

6 MR. TRIMMER: -- to interrupt the Petitioner, but I ask  
7 that his comments about asking for recognition prior to the  
8 filing of the petition, that his discussion regarding other  
9 units at other hotels, and his discussion of a no-strike clause  
10 and a collective bargaining agreement be stricken from the  
11 record.

12 There's no evidence about any of those issues in the  
13 record. And, in fact, the Union expressly declined to present  
14 such evidence. So in our view, although I understand that  
15 you'll be communicating details to the Regional Director, it  
16 would be inappropriate for the Regional Director to rely on any  
17 of those issues. There's no evidence, and there's no facts in  
18 the record that would support his reliance on it.

19 HEARING OFFICER HIGLEY: Okay. I'm not in a position to  
20 rule on the motion to strike, but I will pass along the  
21 Employer's motion to strike. Let me ensure that I have all the  
22 matters that you mentioned. Strike mentioned of representation  
23 at other properties, the clause contained in collective  
24 bargaining agreements, and the efforts at obtaining recognition  
25 prior to the filing of the petition.



1 MR. TRIMMER: Yes.

2 HEARING OFFICER HIGLEY: Is there anything I missed?

3 Okay. I will convey that motion. I don't recall those being  
4 entered into record. And it is the record, the evidence in the  
5 record, not the oral arguments that will -- that the Regional  
6 Director will rely on in making his decision.

7 Is there any response from the Petitioner?

8 MR. SOTO: I'm sorry, Hearing Officer, but did you state  
9 that, on record, it doesn't show us asking for recognition on  
10 record?

11 HEARING OFFICER HIGLEY: I'm saying the -- no. I'm saying  
12 that the record does not contain evidence of the request for  
13 recognition that was made -- I shouldn't say that was made. It  
14 does not contain evidence regarding a request for recognition  
15 prior to the filing of the petition.

16 MR. SOTO: Understood.

17 HEARING OFFICER HIGLEY: Okay. Thank you, both, for your  
18 closing statements. If there is nothing further, the hearing  
19 will be closed.

20 Okay, hearing nothing further, the hearing's now closed.  
21 Let's go off the record.

22 **(Whereupon, the hearing in the above-entitled matter was closed**  
23 **at 3:50 p.m.)**

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C E R T I F I C A T I O N

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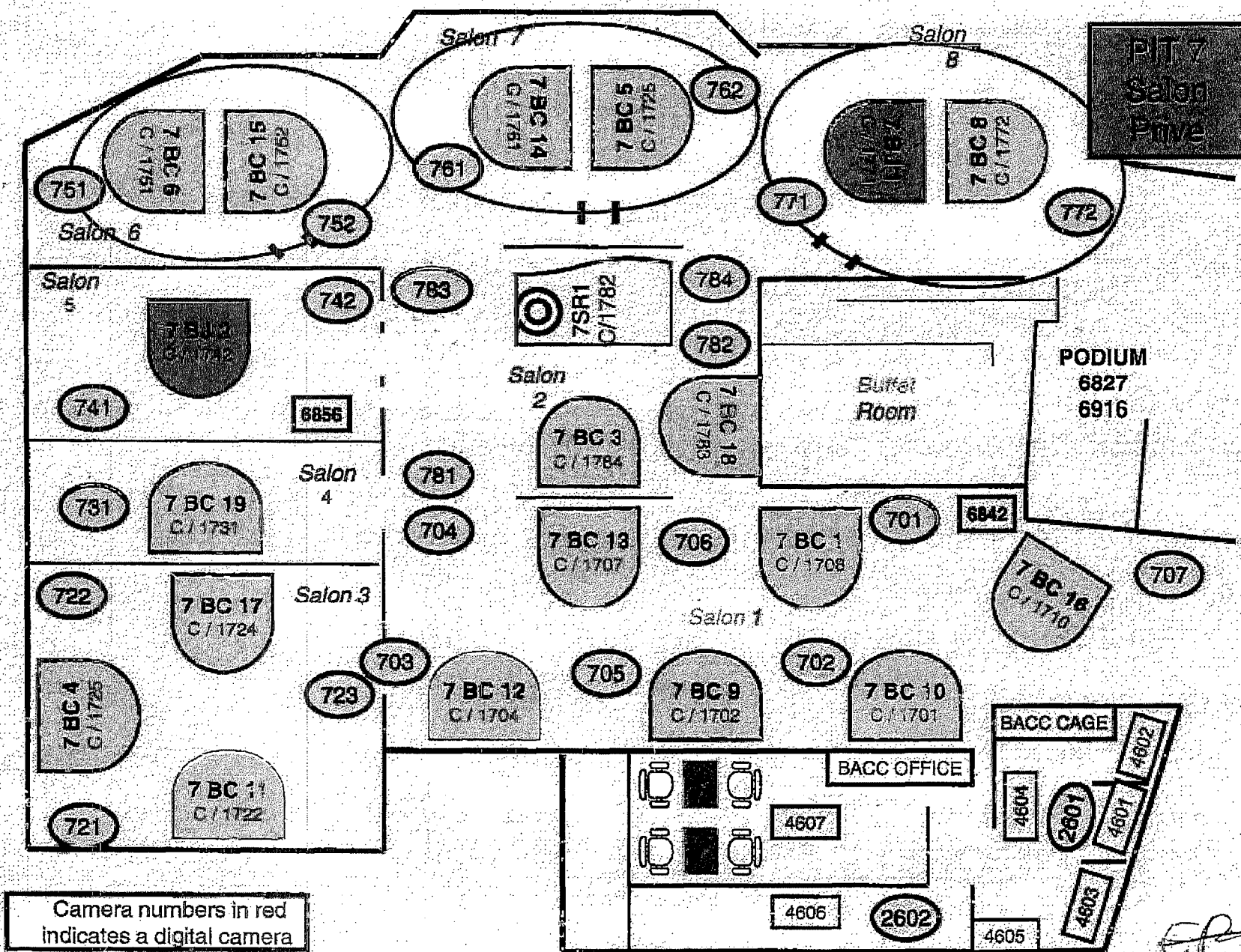
25

This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), Region 28, Case Number 28-RC-154081, Bellagio LLC, d/b/a Bellagio Las Vegas and International Union of Operating Engineers Local 501, AFL-CIO, at the National Labor Relations Board, Region 28, Foley Federal Building, 300 Las Vegas Boulevard South, Las Vegas, Nevada 89101, on Wednesday, June 24, 2015, at 8:59 a.m. was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the reporting or recording, accomplished at the hearing, that the exhibit files have been checked for completeness and no exhibits received in evidence or in the rejected exhibit files are missing.



JENNIFER GEROLD

Official Reporter



0409

~~EP-3~~  
E-3

EXHIBIT NO. E-3 RECEIVED X REJECTED \_\_\_\_\_  
CASE NO. 28-PC-154081 CASE NAME: Bellagio  
NO. OF PAGES: 2 DATE: 4/28/15 REPORTER: JS

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**From:** Becirovic, Alija <ABECIROV01@BellagioResort.com>  
**Sent:** Saturday, January 31, 2015 10:43 AM  
**To:** Seibold, Dustin Robert; Bakios, Suzanne; Iveson, Evangelia; Stone, Rosa; Young, John; Gillespie, Crystal  
**Subject:** FW: Bellagio big game approval

Our Big game setup has been approved.

**Alija Becirovic**  
Tech-Surveillance



TF 888.474.7111  
D 702.693.7189  
F 702.693.7192  
[abecirov01@bellagioresort.com](mailto:abecirov01@bellagioresort.com)

[bellagio.com](http://bellagio.com)



---

**From:** Jeffrey, Paul [<mailto:PJeffrey@gcb.nv.gov>]  
**Sent:** Friday, January 30, 2015 1:57 PM  
**To:** Becirovic, Alija  
**Cc:** Ops Unit; Creon, Kimberly; Wulf, Sue  
**Subject:** FW: Bellagio big game approval

This coverage has been reviewed and is approved.

Paul M. Jeffrey, Agent  
Nevada State Gaming Control Board  
Enforcement Division  
555 East Washington Avenue, Suite 2600  
Las Vegas, Nevada, 89101  
Phone: (702) 486-2020  
FAX: (702) 486-2230

**From:** Becirovic, Alija [<mailto:ABECIROV01@BellagioResort.com>]  
**Sent:** Friday, January 30, 2015 1:51 PM  
**To:** Ops Unit  
**Cc:** Seibold, Dustin Robert; Bakios, Suzanne; Stone, Rosa; Iveson, Evangelia; Young, John; Rose, Jason; Gillespie, Crystal  
**Subject:** Bellagio big game approval

Hello,

We have betting stations set up in Monet ballroom as well as six table games and 6 slot machines. Pictures of camera shots and map are attached.

EXHIBIT NO. E-4 RECEIVED X REJECTED \_\_\_\_\_  
CASE NO. 28-PC-154081 CASE NAME: Bellgard  
NO. OF PAGES 3 DATE: 6/24/15 REPORTER: JL

Thank You!

BELL AGIO



**Alija Becirovic**  
Tech-Surveillance

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D 702.693.7189

F 702.693.7192

[abecirov01@bellagioresort.com](mailto:abecirov01@bellagioresort.com)

[bellagio.com](http://bellagio.com)



**Seibold, Dustin Robert**

**From:** Becirovic, Alija  
**Sent:** Friday, June 12, 2015 01:08 PM  
**To:** ops@gcb.nv.gov  
**Cc:** Seibold, Dustin Robert; Bakios, Suzanne; Stone, Rosa; Bilodeau, Raymond; Gillespie, Crystal; Iveson, Evangelia; Rose, Jason  
**Subject:** Bellagio Baccarat Tournament Approval  
**Attachments:** 500 K Baccarat June, 2015 Map.jpg; 2901.jpg; 2902.jpg; 2903.jpg; 2905.jpg; 2906.jpg; 2907-Final.jpg; 3110 PTZ.jpg; 3111 PTZ.jpg; 3113 PTZ.jpg; Final Table Map.jpg

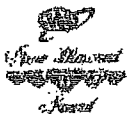
Hello,

WE have a baccarat tournament here at Bellagio that we need approval for. Pictures of camera shots and maps are included.

Thank you!

Alija Becirovic  
Tech-Surveillance

BELLAGIO



TF 888.474.7111  
D 702.693.7189  
F 702.693.7192  
[abecirov01@bellagioresort.com](mailto:abecirov01@bellagioresort.com)

[bellagio.com](http://bellagio.com)



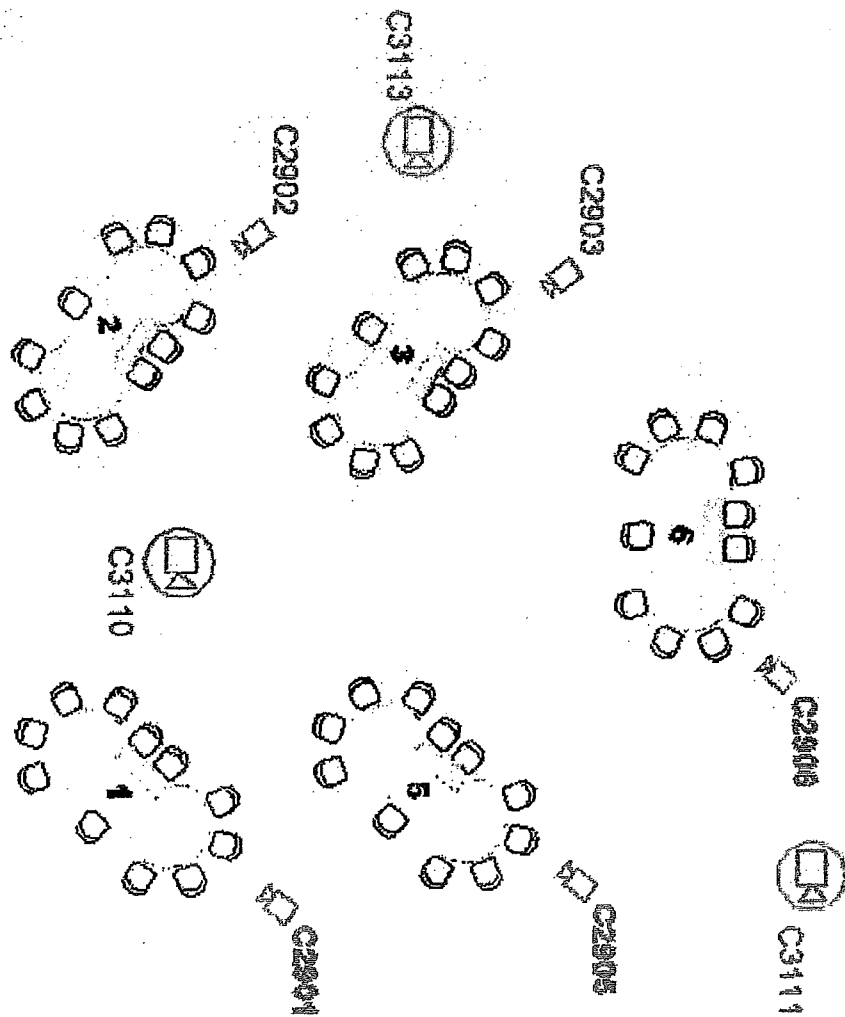
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ES  
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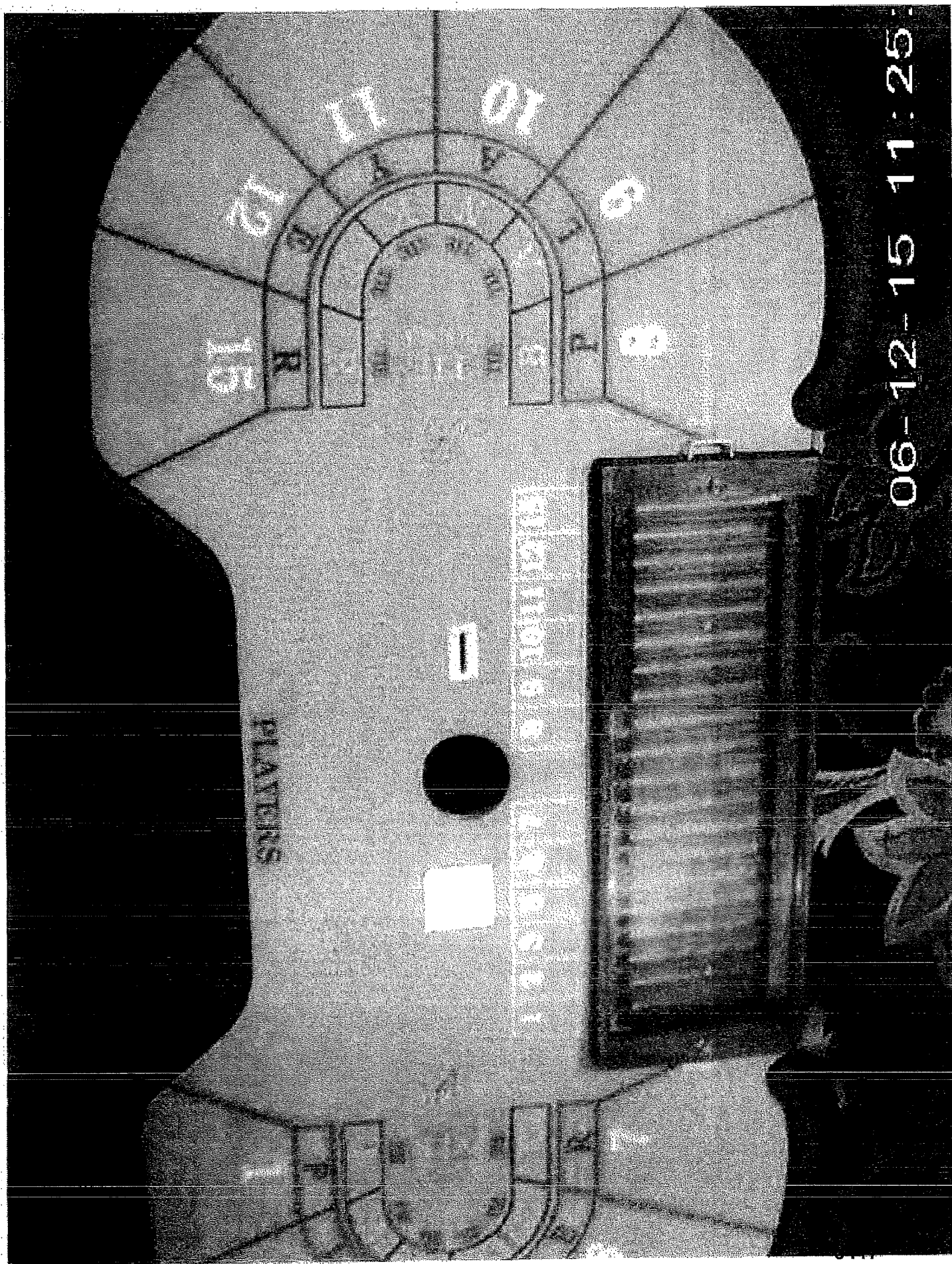


EXHIBIT NO. E-5 RECEIVED X REJECTED \_\_\_\_\_  
CASE NO. 25 PC-154081 CASE NAME: Bellagio  
NO. OF PAGES 13 DATE: 6/24/15 REPORTER: JB 0415

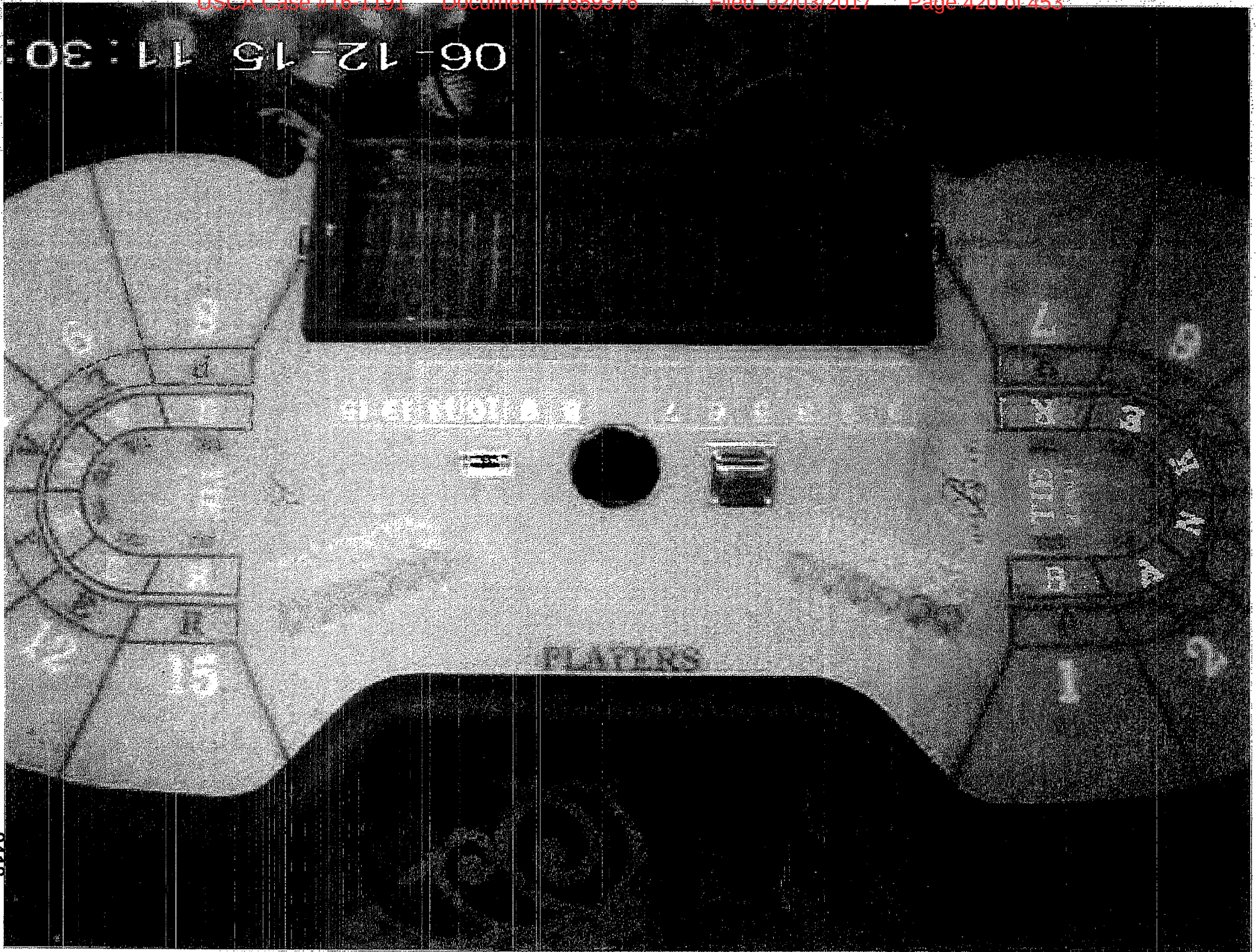
**BELLACIO**  
**\$500 000 Five Diamond Baccarat**  
**Tournament**  
**June 12th-June 14th, 2015**



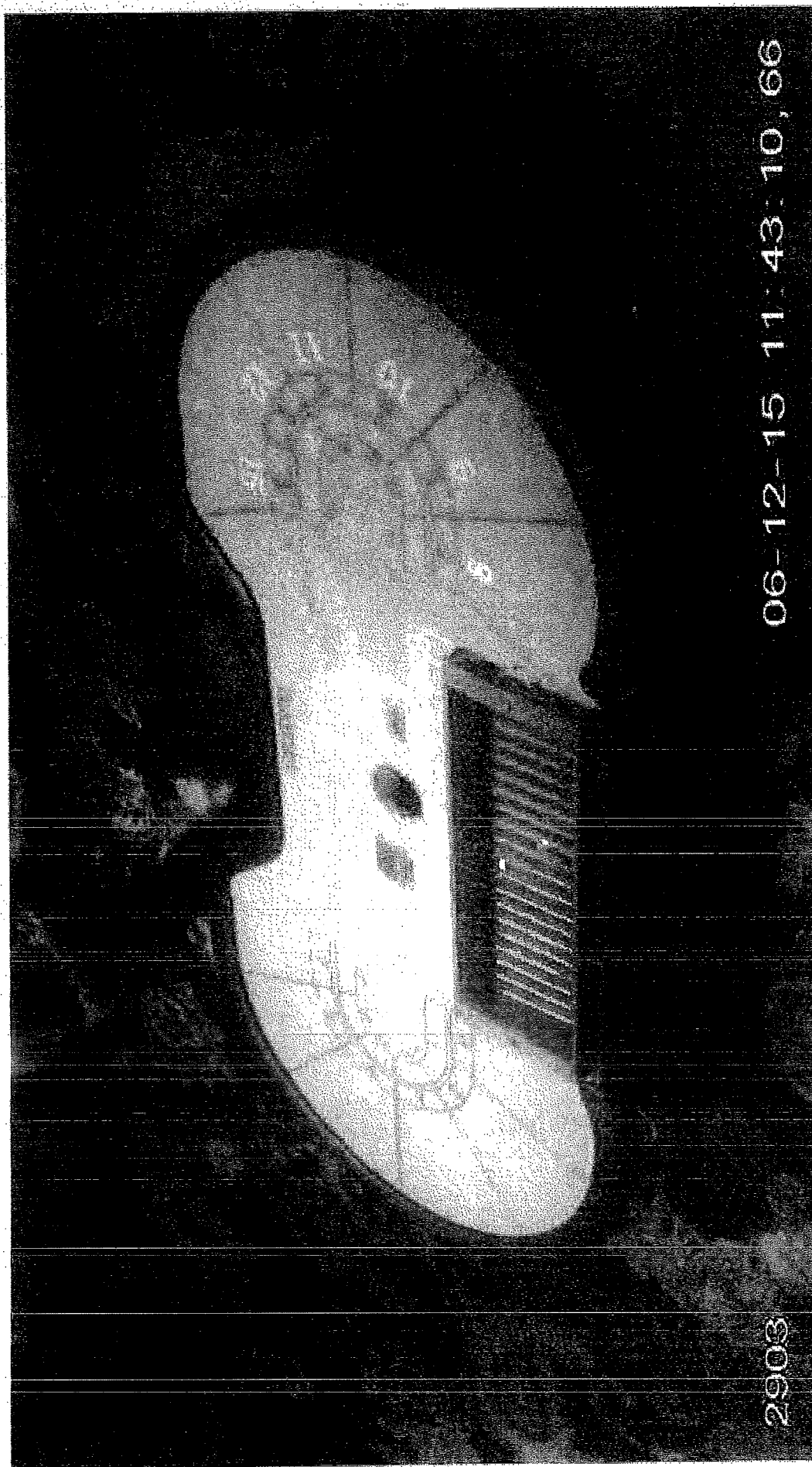




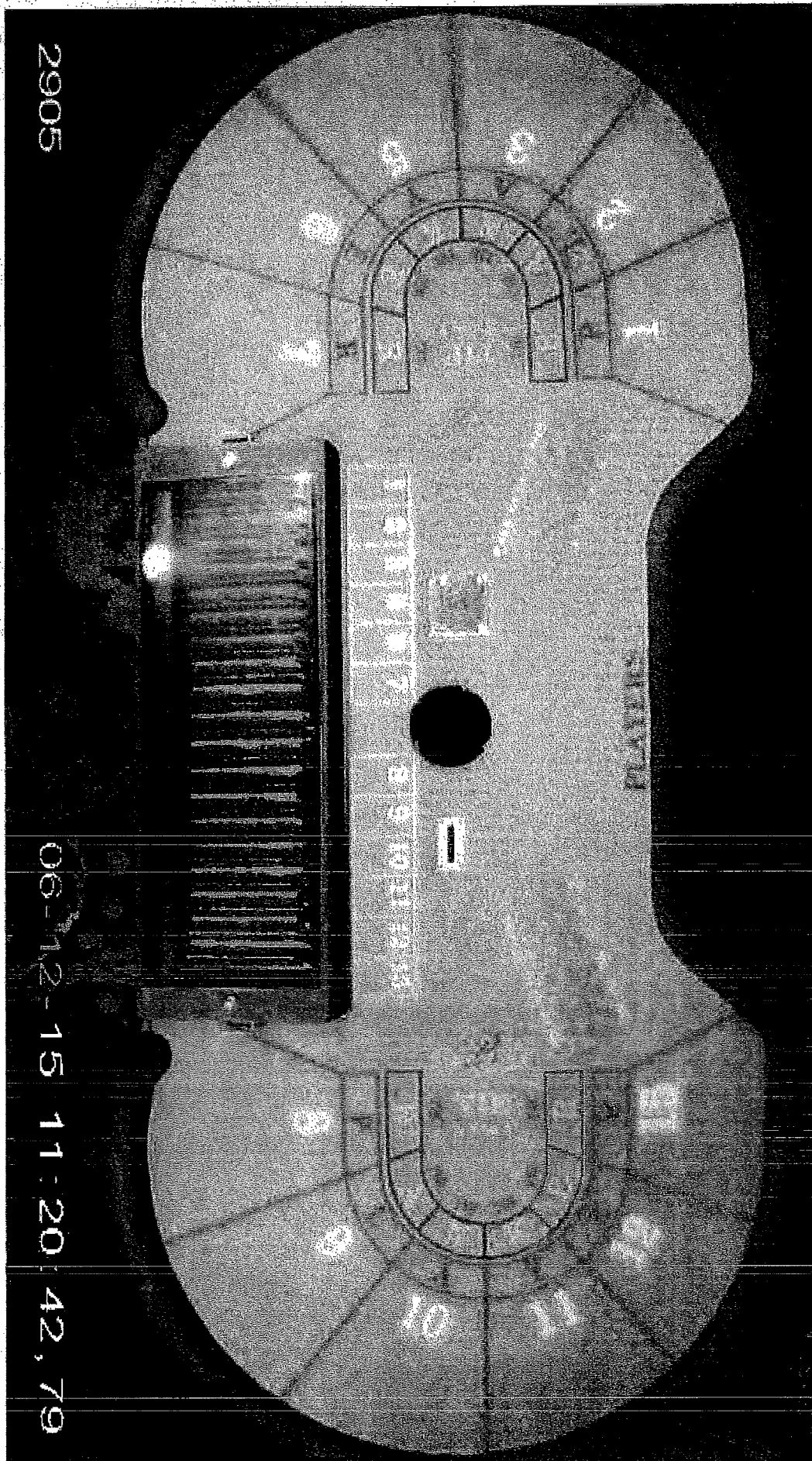




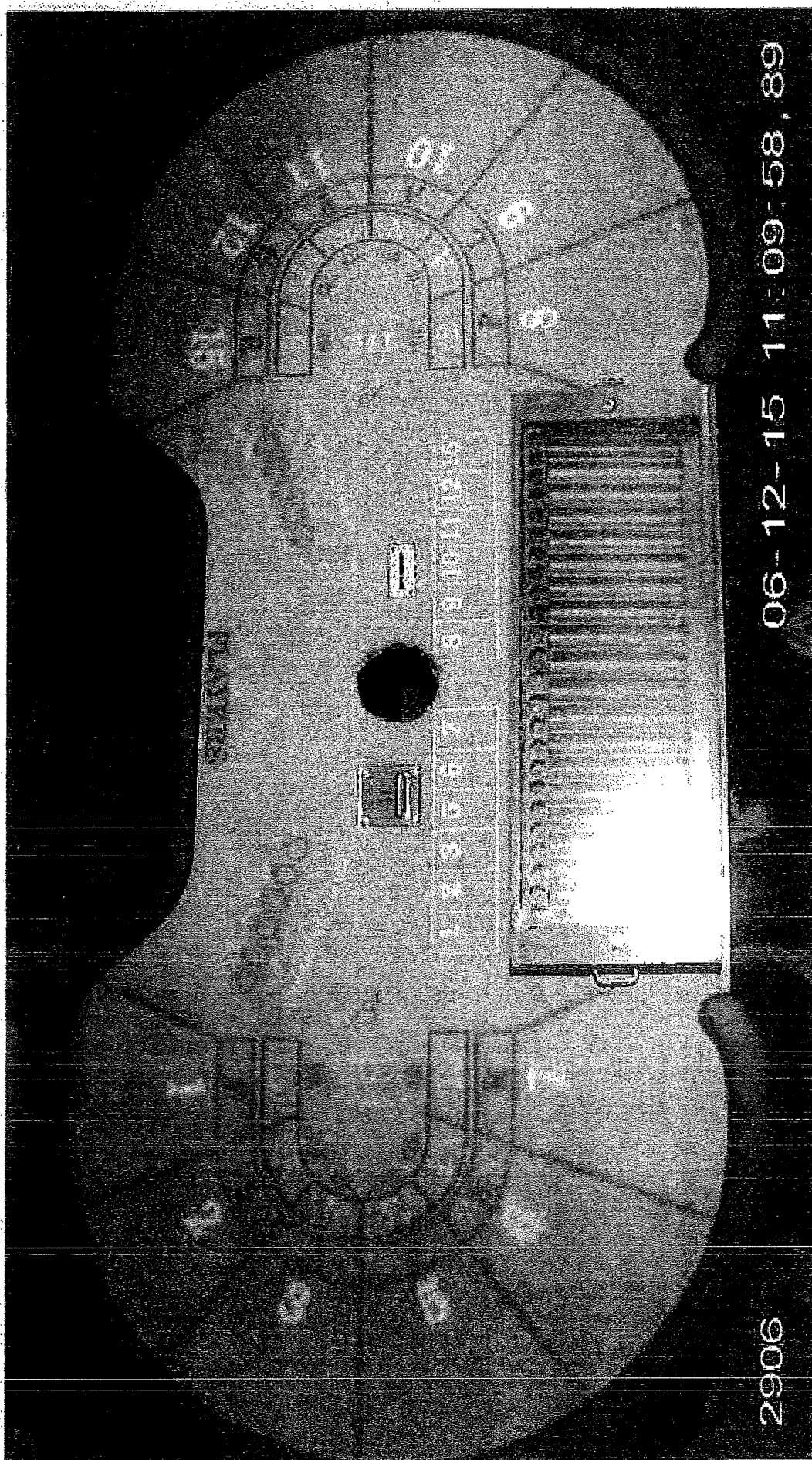




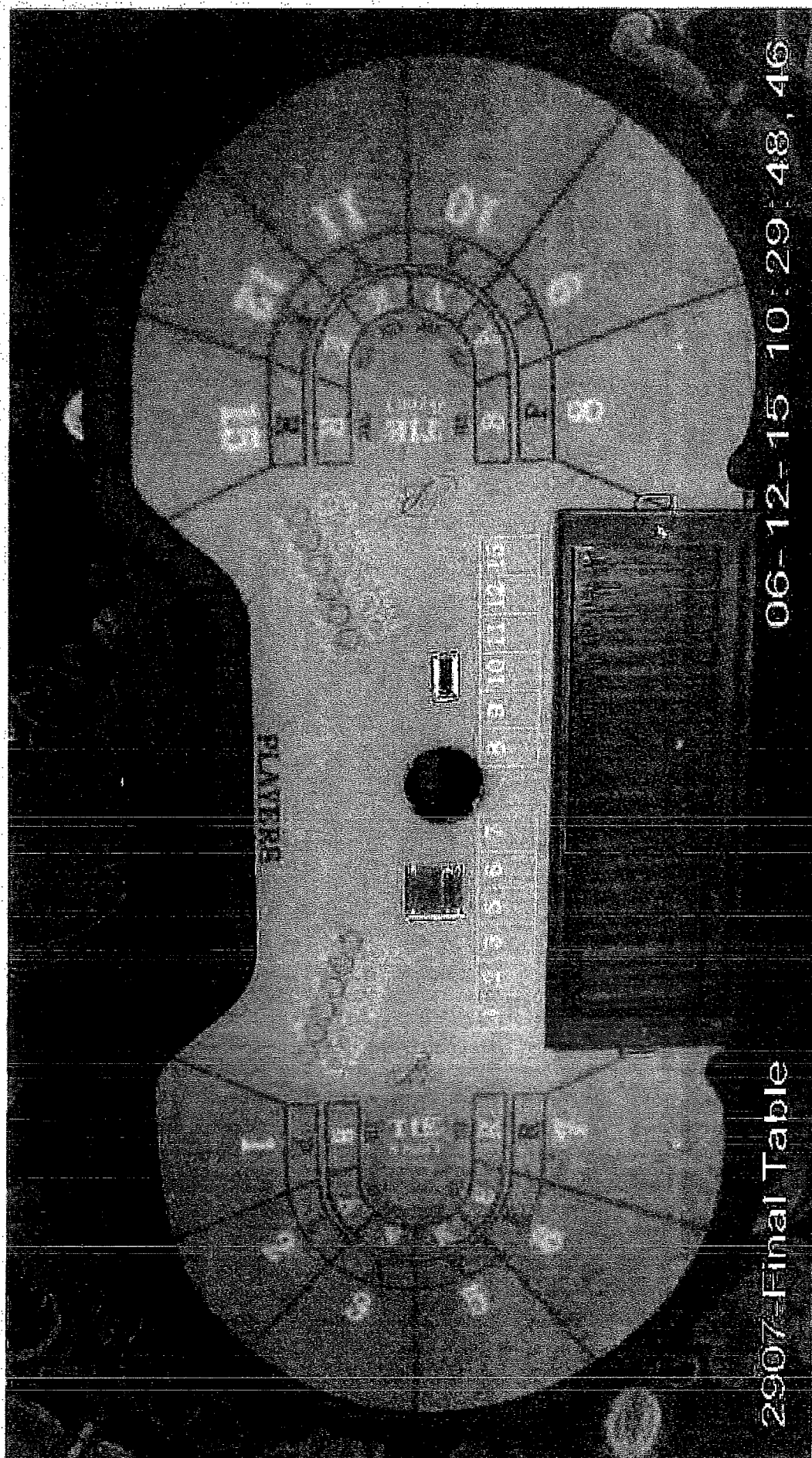








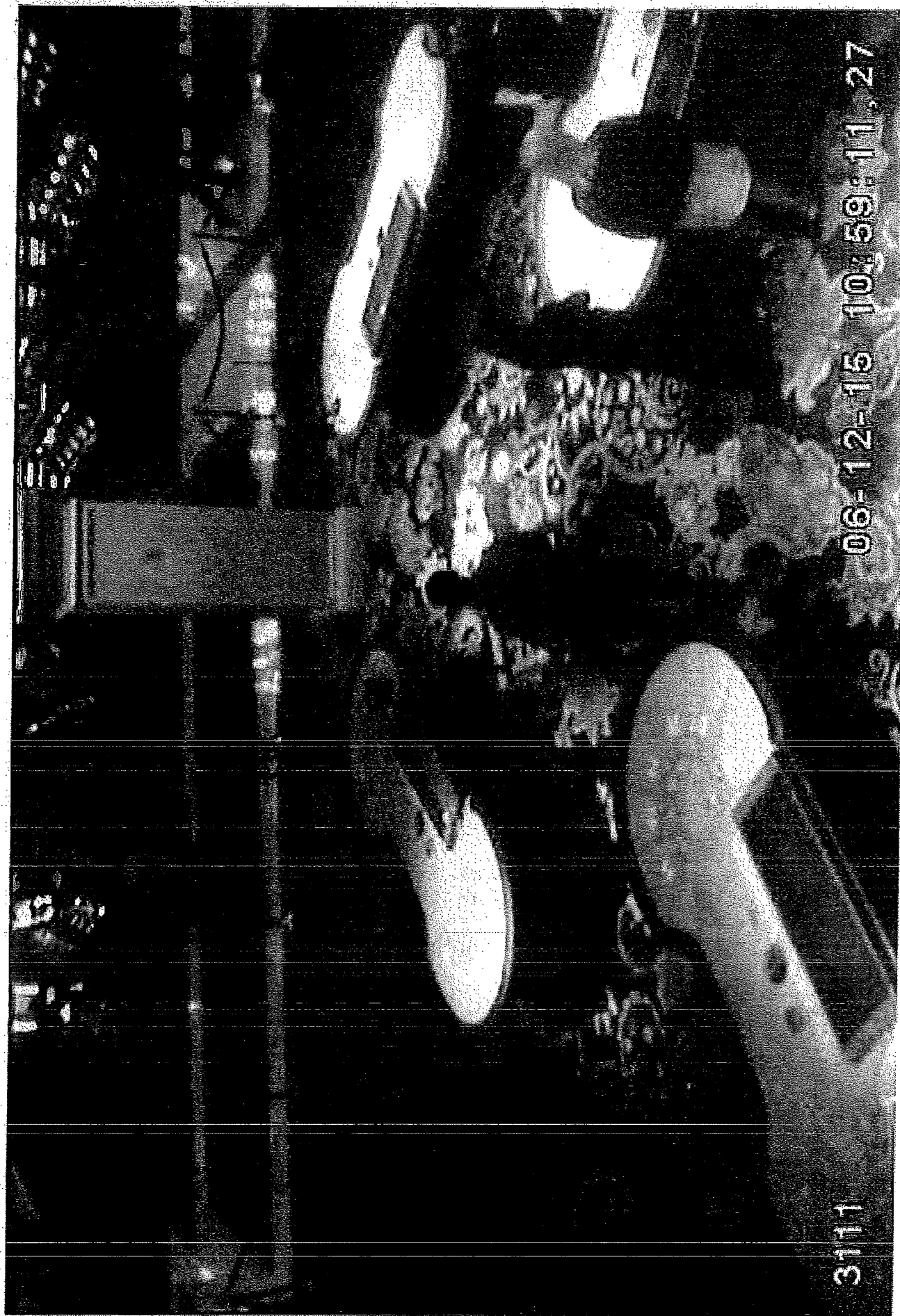




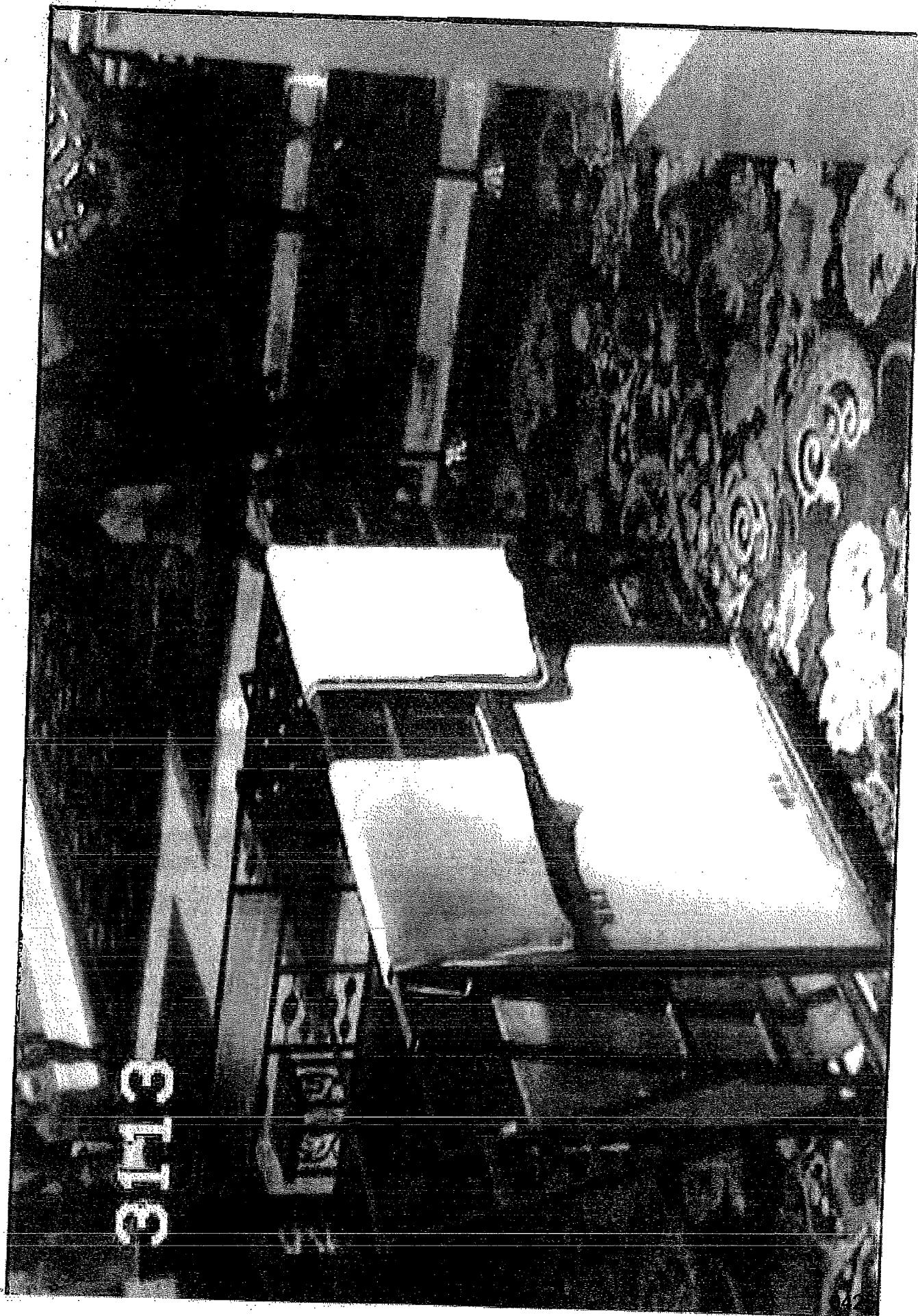












C3113

C3111

C2907

C3110

**BELLAGIO**

Final Table

\$500,000 Five Diamond Baccarat

Tournament

June 12th-June 14th, 2015



INFORMED

SPECIAL ISSUE

TESORINI

## TESORINI

Tesorini Takes "High-end" to a New Level!

Excited to please, know that the newly remodeled Tesorini is now open in the Grand. A modern setting, certainly, but the classic luxury of the new store is also in the interior. The new store is a vast, bright, and airy space, with a high ceiling and large windows that let in natural light. The store is a true reflection of the brand's commitment to excellence and luxury.

What makes this outlet different than the previous one? The new 3,536 square-foot location showcases a "shop-in-shop" concept, which means sections of the store are dedicated to particular brands. Tesorini features five shops within the outlet including Rolex, Patek Philippe, Breitling, Officine Panerai, and Jaeger-LeCoultre. Here are some key points you should know so that you can answer guest questions:

**Facts:**

- Tesorini is located just outside of the Conservatory.
- Hours of operation for the store are Sunday through Wednesday from 10 a.m. to 11 p.m. and Thursday through Saturday from 10 a.m. to midnight.
- The shop-in-shop concept allows guests to have access to intimate brand experiences making Tesorini a top destination for high-end jewelry.
- This location has the highest average sale of Rolex in Las Vegas.
- Tesorini has two secluded viewing rooms to accommodate guests looking to make a private purchase.

Tesorini features brands such as Robert Coin, Garavelli, Tamara Comolli, Pasquale Bruni, Mattia Cielo, and more.



The only item saved from the original Tesorini is the Rolex custom clock that hangs over the store entrance.

ER

54276

EXHIBIT NO. E-6 RECEIVED X REJECTED \_\_\_\_\_  
CASE NO. 28-PC-154081 CASE NAME: Bellegio  
NO. OF PAGES: 2 DATE: 6/24/15 REPORTER: 0428

## Security Investigations Case File

### Case Opening

Date Open 01/04/11 Investigator REKKIE IR # 11-0003  
 Incident 1/04/11 Related DR # 11-0804

	Name	Department/ Address
Complainant		
Victim		
Witness		
Employee		

Suspect Information: HEATHER FREAU # 39095

### Narrative:

POKER DEALER HEATHER FREAU IS OBSERVED  
ON VIDEO REMOVING ITEMS FROM BEHIND  
THE PRINTER IN THE POKER OFFICE.  
MASSAGE THERAPIST TISHA SANTANA REPORTED  
HER PURSE, CASH, & SWEATSHIRT (TOTAL VALUE \$484)  
MISSING FROM THIS AREA DURING THE TIME FRAME  
IN QUESTION, FREAU IS THE ONLY PERSON OBSERVED  
REMOVING ITEMS FROM THE AREA.

### Case Closing

Date closed \_\_\_\_\_ Investigator Closing \_\_\_\_\_

Reason for Closing: ☐ Inconclusive Findings ☐ Employee Misconduct  
☐ Arrested ☐ Other

epf

6429

EXHIBIT IN 67 RECEIVED X REQUESTED \_\_\_\_\_  
CASE NO. 28-PC-154081 CASE NAME Bellagio  
NO. OF PAGES: 2 DATE: 6/24/15 REPORTER: Ne 6430



**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 28**

**BELLAGIO, LLC d/b/a BELLAGIO LAS VEGAS**

**Employer**

**and**

**Case 28-RC-154081**

**INTERNATIONAL UNION OF OPERATING  
ENGINEERS, LOCAL 501, AFL-CIO**

**Petitioner**

**DECISION AND DIRECTION OF ELECTION**

International Union of Operating Engineers, Local 501, AFL-CIO (the Petitioner) seeks to represent a unit of all full-time and part-time surveillance techs employed by Bellagio, LLC d/b/a Bellagio Las Vegas (the Employer) at its Las Vegas, Nevada facility. The Employer asserts that the petition does not satisfy the mandatory obligations in Section 102.61(a)(8) of the Board's Rules and Regulations.<sup>1</sup> The Employer further claims that the petitioned-for unit is inappropriate because it includes confidential employees and guards. The parties do not agree on a date for an election, as the Petitioner requested June 30, or July 1, 2015, while the Employer requested July 8, 2015, based on the number of employees working on that date.

A hearing officer of the Board held a pre-election hearing in this matter and the parties orally argued their respective positions prior to the close of the hearing. As described below, based on the record and relevant Board case, including the Board's decision in *Advance Pattern Co.*, 80 NLRB 29 (1948), I find that the petition is sufficient. Further, I find that the petitioned-for unit is appropriate.

**The Employer's Operations**

The Employer is engaged in commerce within the meaning of Section 2(6) and (7) of the National Labor Relations Act. The Employer is a Nevada corporation with offices and place of business in Las Vegas, Nevada, the only operation involved herein, where it operates a casino and hotel, and provides convention and meeting spaces, restaurant services, entertainment services, retail, and other amusement services.

---

<sup>1</sup> A petition for certification when filed by an employee or group of employees or an individual or labor organization acting in their behalf, shall contain the following: [a] statement that the employer declines to recognize the petitioner as the representative within the meaning of section 9(a) of the Act or that the labor organization is currently recognized but desires certification under the Act.

Bellagio, LLC d/b/a Bellagio Las Vegas  
Case 28-RC-154081

The petitioned-for unit is comprised of three surveillance tech employees at the Employer's facility. The Employer agrees to the petitioned-for unit of surveillance techs if they are not found to be guards or confidential employees.

### **The Petition is Sufficient**

The Employer once again raised its objection to the pre-election hearing and petition for the reasons expressed in its Motion to Dismiss filed on June 16, 2015. At hearing, the Employer's argument was limited to the sufficiency of the petition itself. The Employer's Motion to Dismiss reads otherwise.<sup>2</sup> The Employer argues that the petition fails to state the whether the Petitioner requested recognition before filing its petition, asserting that this is a requirement pursuant to Section 102.61(a)(8) of the Board's Rules and Regulations and Section 7(a) on Form NLRB-502(RC) (RC Petition).

Section 102.61(a), which addresses petitions for certifications, does not impose any condition requiring a petitioner to demand recognition from the Employer under Section 9(a) of the National Labor Relations Act (the Act) before filing a petition for certification. Similarly, Section 102.61(a)(8), which describes the contents that must accompany a petition for certification at the time of service, does not impose this demand for recognition requirement. Although the Employer asserts that the petitioner must demand recognition under these rules, Section 102.61(a)(8) simply does not support this argument. Rather, Section 102.61(a)(8) describes that the petition for certification form provides a section for the petitioner to note one of two scenarios: (a) whether a request for recognition has been made and whether the employer declined to recognize the petitioner as a representative under Section 9(a) of the Act, or (b) whether the petitioner is currently recognized but desires certification. There is nothing on the form stating that the request for recognition is a condition for filing a valid petition. Moreover, the Employer's argument is contrary to Board law. *Advance Pattern Co.*, 80 NLRB 29, 31-38 (1948) (rejecting motion to dismiss and rejecting a strictly literal interpretation of language nearly identical<sup>3</sup> to Section 102.61(a)(8) as it "can produce only the atmosphere of a tensely litigated law suit in which all sides will be quick to seize upon technical defects in pleadings to gain substantive victories").<sup>4</sup>

For the reasons discussed above, the Employer has not established that the Petitioner has failed to comply with its obligations. For the reasons set forth in the previous Order and

---

<sup>2</sup> "In this case, the petition does not satisfy the mandatory obligations imposed by Section 102.61(a). The petition does not include a 'statement that the employer declines to recognize the petitioner as the representative within the meaning of Section 9(a).' The Union left Section 7 of the petition completely blank and failed to ever request that the Employer recognize it as the representative of the petitioned for unit."

<sup>3</sup> The language in the Board's Rules at the time did not contain the additional provision "or that the labor organization is currently recognized but desires certification under the Act."

<sup>4</sup> "[W]e adhered faithfully to the practice of deciding on the merits any case in which it appeared that a real question concerning representation *existed*, despite the fortuity that a petition might have disclosed faulty, incomplete, inaccurate, or otherwise imperfect information. We found that the Board could only achieve a fair measure of success in performing its obligations by following that policy." *Id.* at 31.

Bellagio, LLC d/b/a Bellagio Las Vegas  
Case 28-RC-154081

the evidence produced on the record, I am once again denying the Employer's Motion to Dismiss.

**The Employer's Evidence that the Petitioned-for Unit is Inappropriate**

The Employer asserts that the petitioned-for unit is inappropriate because surveillance technicians are confidential employees. The Employer relies on *NLRB v. Hendricks County Rural Electric Membership Corp.*, 454 U.S. 170 (1981), in support of its assertion that the surveillance techs act in a confidential capacity to persons who exercise managerial functions in the field of labor relations, claiming that they are directly and inextricably involved in the Company's efforts to investigate potential employee misconduct and adjust grievances related to such matters, among other things. The Employer claims that the surveillance techs' access to information allows them to infiltrate the Employer's electronic information and physical offices without detection, which creates a conflict of interest between the technicians and the Employer notwithstanding the fact that there is no evidence that the techs have ever improperly accessed electronic information or physical areas where sensitive information is maintained.

The Employer also claims that the petitioned-for unit is inappropriate because surveillance techs are guards because they are employed to protect both the Employer's property and the safety of persons on its premises, and that neither the Surveillance Department nor the Security Department could operate without the surveillance techs. The Employer asserts that security officers patrolling catwalks have been replaced by hundreds of sophisticated security cameras which are monitored by operators. The surveillance techs' control of the camera systems, and their role in security investigations, make them an indispensable component of the security system and support their classification as guards. The Employer cites statutory language,<sup>5</sup> and *MGM Grand Hotel*, 274 NLRB 139 (1985), asserting that the Board found employees to be guards notwithstanding the lack of physical duties of intercepting people, confronting people, or rectifying abnormal situations because those employees were intimately involved in the security functions and life safety procedures at the employer's establishment as they operated, monitored, and maintained an automated life safety fire alarm system. The Employer also relies upon *Wright Memorial Hospital*, 255 NLRB 1319 (1980), in support of its position that no element of personal confrontation is required to establish guard status.

The Employer presented un rebutted evidence from its Director of Surveillance, Vice President of Security, and Technical Director for MGM Resorts International regarding the responsibilities of surveillance techs, surveillance operators in the Surveillance Department, security guards and security operators in the Security Department, and State gaming control regulations. The record establishes that the Surveillance Department is responsible for

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<sup>5</sup> "[T]he Board shall not . . . decide that any unit is appropriate for such purposes if it includes, together with other employees, any individual employed as a guard to enforce against employees and other persons rules to protect property of the employer or to protect the safety of persons on the employer's premises; but no labor organization shall be certified as the representative of employees in a bargaining unit of guards if such organization admits to membership, or is affiliated directly or indirectly with an organization which admits to membership, employees other than guards."

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protecting assets of the Employer, including safety of employees and guests, and compliance with State gaming regulations. The Surveillance Department includes surveillance technicians, a lead technician, surveillance operators and lead surveillance operators, each of which reports to the shift surveillance supervisor.

Surveillance operators are stationed in the surveillance monitor room, are responsible for observing the gaming area camera system for improprieties, and recording and reporting what occurs. If an incident occurs, the operators store the video, download the video to a file, and burn it to a DVD if necessary. Although the gaming and non-gaming video systems are separated, the surveillance operators can view non-gaming cameras, but security operators cannot view surveillance cameras. There are two to four operators on each shift who maintain 24 hour coverage, each of whom has a workstation, a section of monitors to which they are assigned, and a security radio which they monitor. The surveillance supervisors are present with the surveillance operators. To be compliant with State gaming regulations, the Employer is required to maintain compliant equipment maintaining surveillance coverage for the gaming area or risk operational limitations for non-compliance. There are approximately 26 displays in the monitor room covering approximately 1,100 surveillance cameras covering the gaming areas. The operators monitor live feeds of the camera system, including fixed and moveable cameras, take radio calls, and monitor the appropriate camera systems based on issues that the operator observes or which are reported through the security radio. The operators also review recorded video if necessary.

The Employer's three surveillance technicians are responsible for designing, installing, and maintaining the integrity of the surveillance recording system and security recording system. The Employer uses a variety of recording devices, including analog and digital cameras. Pinhole and other specialized cameras are used for special operations such as investigations performed by the Security Department's investigators. The camera system changes constantly, requiring the surveillance techs to add, delete, reposition, and refocus cameras throughout the property in addition to modifying associated system alarms. System modification can be the result of remodeling and temporary events, among others. The techs adjust camera coverage with the approval of the Director of Surveillance and final approval from the State gaming authority. The techs are responsible for making sure that the surveillance system repairs are completed within the timeframe established by State gaming regulations. Surveillance techs, with the approval of the Director of Surveillance, perform work for the Security Department in support of the maintenance and operation of the security recording system.

The surveillance techs have administrative access to the entire surveillance system in order to maintain the systems and databases used for surveillance. This provides the techs with access to surveillance systems, including servers, surveillance storage, and hard drives. With system access, the techs can modify the operations of the surveillance system, add or delete users, modify surveillance coverage, add or delete security alarms, and modify electronic door lock system and electronic key fobs which give them access to substantial portion of the Employer's property. The surveillance techs do not have plenary authority to act as they wish, and should obtain necessary permission or risk discipline. Security officers rotate through the Security Department monitor room. The Director of Surveillance has



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equivalent access. The surveillance techs also possess a master key which grants physical access to several locations on property which are unavailable to most persons, although the techs are still limited by policy to enter only the areas in which they need access. Tech access theoretically allows the techs to improperly format hard drives, delete video, and modify various aspects of the system, and improperly access physical locations, although the Employer was unaware of any instance where a tech used access privileges for misconduct.

The surveillance techs work from two spaces – a shop and an equipment room. Unlike the surveillance operators, surveillance techs are not generally present 24 hours a day; they work one shift, with one tech on call from the end of the day's shift until the beginning of the next day's shift.

The surveillance techs enter the surveillance monitor room daily, as they check in and out there. They check to see if any monitor room equipment needs work, including updating the surveillance operators' workstations, and ensuring that surveillance operators have appropriate access to cameras. Techs may assist operators if they encounter difficulty in retrieving video from the recording devices. Techs are not responsible for monitoring the actual behavior of people which is observed by the system.

The Employer's Security Department is separate and distinct from the Surveillance Department. It has its own staff and separate responsibilities for ensuring the safety and security of guests, employees, and the Employer's property. The Security Department observes the Employer's property through 245 security officers who are assigned to posts, and through its own video system of approximately 1,500 cameras which cover the non-gaming areas. Security officers rotate through the Security Department monitor room. The surveillance techs support the operation of the Security Department video system in the same manner that they support the Surveillance Department video system, with the exception that the security video system is not covered by State gaming regulations. The Vice President of Security also has administrator access similar to the Director of Surveillance.

Surveillance techs are distinguished from security officers in many ways. Security officers wear slacks, a blazer, while techs wear dark pants and a polo shirt. Officers carry handcuffs, while techs carry tools. Unlike surveillance techs, officers are not responsible for installing, maintaining, or adjusting cameras. Officers are obligated to engage in situations such as guests who are caught cheating, including the use of restraints. Techs are obligated to respond only to situations involving recording equipment. Techs have no training or obligation to restrain individuals. Techs have no obligation to assist an officer in restraining a guest, are not allowed by policy to restrain an individual. Officers are assigned posts where they patrol an assigned area observing for problems including misconduct, while techs work in various areas depending on the day's duties, and their required review of an area is limited to issues affecting the surveillance system such as camera domes which have come loose and are at risk of falling. Unlike security officers, who are required to react in certain situations such as cheating or misconduct, a tech is not required to react. Although some security personnel are authorized to carry weapons, surveillance techs are not. Officers respond to incidents such as fights or misconduct, while surveillance techs do not. Security officers escort persons off property, while techs do not.

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Surveillance techs assist provide limited assistance for some aspects of some investigations which are called special operations. If their assistance is needed, techs develop and install recording devices based on the needs of the investigation and based on the type of area and type of conduct to be monitored, which may include the use of installed, visible, or covert cameras. Techs do not have any role in the investigations other than ensuring the correct operation of the surveillance cameras and system. No evidence was presented that techs know the identity of the persons being investigated. Special operations are performed at once or twice per month. In contrast to special operations, special observations are used for situations such as a dealer suspected of improper activity. Surveillance tech responsibility for special operations or special observations is limited to ensuring the integrity and operational status of the surveillance system.

### **The Petitioned-for Unit does not Include Confidential Employees**

The party asserting confidential status has the burden of proof. *Crest Mark Packing Co.*, 283 NLRB 999, 999 (1987). Confidential employees are limited to those employees who assist and act in a confidential capacity to persons who formulate, determine, and effectuate management policies with regard to labor relations, or who regularly substitute for those who do. See, e.g., *Waste Management de Puerto Rico*, 339 NLRB 262, 262 n. 2 (2003); *Firestone Synthetic Latex Co.*, 201 NLRB 347, 348 (1973); *Ladish Co.*, 178 NLRB 90, 90 (1969). The Board adopted a labor-nexus test in *B. F. Goodrich Co.*, 115 NLRB 722, 724 (1956), holding that any broadening of “confidential” would needlessly preclude employees from bargaining collectively together, and that the Board would limit the term to “only those employees who assist and act in a confidential capacity to persons who formulate, determine, *and* effectuate management policies in the field of labor relations.” *Id.* at 724.

The Board has found confidential employees in limited situations under this narrow definition. Secretaries to an employer’s negotiating team and to management officials who were responsible for formulating contract proposals were confidential employees because they assisted in the preparation of and/or had access to confidential labor relations information such as data in preparation for contract negotiations, minutes of negotiation sessions, and grievance investigation reports. *Firestone Synthetic Latex Co.*, 201 NLRB 347, 348 (1973); *Bakersfield Californian*, 316 NLRB 1211, 1212-1213 (1995) (refusing to identify an employee as confidential notwithstanding her supervisor’s roles in labor relations where the employee did not assist her in a confidential capacity, while finding confidential status for another employee who had access to labor strategy notes). Secretaries to the vice-president and the secretary-treasurer of an employer were confidential employees where they were responsible for preparing orders and documents in labor relations matters, and were present when labor relations matters were discussed by their supervisors, which included confidential meetings between officers and supervisors where the employer’s policies on grievances and union negotiations were discussed. *Grocers Supply Co.*, 160 NLRB 485, 488-489 (1966). In contrast, secretaries to other managers are not confidential employees where the managers merely make administrative determinations regarding collective-bargaining agreements, and their participation in the bargaining process was limited. Even involvement in the handling of routine grievances was insufficient. *B. F. Goodrich Co.*, 115 NLRB 722, 725 (1956).

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The Employer asserts that the installation and maintenance of the recording system, including the use of the recording system in investigations which could lead to discipline, and the techs' access to various other systems, demonstrates the confidential status of surveillance techs. Employees are not considered confidential employees simply because they have access to information, including personnel records, or where they can bring information to management which may ultimately lead to disciplinary action. See, e.g., *Ladish Co.*, 178 NLRB 90, 90 (1969) (citing *RCA Communications, Inc.*, 154 NLRB 34, 37 (1965)).

Similarly, the Employer contends that the surveillance techs are confidential employees because of their administrative access to surveillance systems, and their extensive access to the property through the use of master keys. Employees are not deemed confidential simply because they have access to confidential business information. *Fairfax Family Fund, Inc.*, 195 NLRB 306, 307 (1972). In comparison, an employee who has access to confidential information dealing with contract negotiations is a confidential employee, while a clerk who prepares statistical data for use by an employer during contract negotiations is not, because the clerk cannot determine from the prepared data what policy proposals may result. *Kieckhefer Container Co.*, 118 NLRB 950, 951-953 (1957). The Employer also contends that techs are confidential employees because their property access *could* allow them to obtain information on labor relations policies if they improperly accessed areas where such information is stored. The Board has rejected assertions that employees are confidential because they may overhear conversations related to labor relations by virtue of their job location which makes it possible to overhear management discussions of grievances. *Swift & Co.*, 119 NLRB 1556, 1567 (1958). As noted above, surveillance techs are prohibited, under threat of discipline, from improperly using their electronic or physical access to delete, modify, or access information, including any information related to labor relations policies, and no evidence was presented that any of the surveillance techs have engaged in misconduct regarding their electronic or physical access.

*NLRB v. Hendricks County Rural Electric Membership Corp.*, 454 U.S. 170 (1981), cited by the Employer, does not support the Employer's position. Hendricks involves two related cases including Malleable Iron Range Co. (Malleable). The Court agreed with the Board's finding that Weatherman, a personal secretary to the general manager and chief executive officer, was not a confidential employee under the Board's labor-nexus test as she did not act in a confidential capacity with respect to labor-relations matters, and did not have confidential duties with respect to labor policies. *Id.* at 172, 190, 191. Similarly, as to Malleable, the Court rejected a claim that confidential employee should include all employees in possession of confidential business information. *Id.* at 191.

Here, in contrast, even assuming that the surveillance techs have access to confidential information through their access to the video system, they do not act in a confidential capacity with respect to labor-relations matters or labor policies. The Employer claims that the techs are directly and inextricably involved in the Company's efforts to investigate potential employee misconduct and adjust grievances related to such matters. No evidence was presented that techs performed any role during investigations other than the installation of, and maintenance of the video recording system. The techs were not involved in the determination of misconduct, the determination of punishment, the development of policies,

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or the adjustment of any grievance related to any change of policies or resolution of discipline issued as a result of the investigation. Aside from the maintenance of video systems in support of investigations, no evidence was presented that surveillance techs acted in a confidential capacity with management. Specifically, no evidence was presented that surveillance techs act in a confidential capacity with supervisors or managers regarding labor-relations matters or policies.

The Employer has not met its burden of proof to show that the surveillance techs are confidential employees as the Employer has not shown that the techs act in a confidential capacity regarding labor-relations matters or labor policies to persons who exercise managerial functions in the field of labor relations. I am, therefore, refusing to classify the surveillance techs as confidential employees who should be excluded them from the petitioned-for unit on that basis.

#### **The Petitioned-for Unit does not Include Guards**

To be considered a guard under the Act, an individual must enforce rules to protect the property of the employer's premises against employees and other persons. *Reynolds Metal Co.*, 198 NLRB 120, 120 (1972). Employees with mixed duties are guards where a portion of their time, and a significant portion of their job, is spent performing guard duties including enforcement of company rules as a continued part of their responsibility. *Id.* Employees who install and maintain electrical alarm devices were not guards where they did not receive guard training, worked under different supervision than the full-time guards, and were dispatched only when an alarm was caused by a malfunctioning alarm device. *American District Telegraph Co.*, 128 NLRB 345, 346 (1960). Access to employer property, and admitting persons onto the property, is insufficient to find guard status where the employees had no authority to enforce rules to protect property or persons. *Meyer Mfg. Corp.*, 170 NLRB 509, 509-510 (1968).

The Employer has not supported its claim that the surveillance techs are guards. The evidence presented does not show that surveillance techs enforced rules to protect property against employees and other persons. No evidence was presented showing that surveillance techs enforce rules or protect property against anyone. Instead, the techs' responsibilities are limited to the installation, modification, removal, and maintenance of the video monitoring system. In the absence of evidence showing the surveillance techs enforce rules to protect property or persons, they cannot be classified as guards under the Act notwithstanding their broad access to the employer's property or their ability to grant access to others. *Meyer Mfg. Corp.*, 170 NLRB 509, 509-510 (1968). Further, the Employer here utilizes a separate Security Department with its own security officers who are responsible for enforcing rules to protect the property of the employer's premises against employees and other persons. Surveillance techs install and maintain the recording system, and respond to system problems. They are, therefore, not guards. *Cf. American District Telegraph Co.*, 128 NLRB 345 (1960).

The claim that the surveillance techs are guards is not aided by the cases cited by the Employer. *Wright Memorial Hospital*, 255 NLRB 1319 (1980), is distinguishable in comparison to the facts here. In that case, the Board reversed the Regional Director and found that ambulance employees were guards because they enforced, against employees and



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others, rules to protect the employer's property and the safety of persons on the premises. *Id.* at 1320. In addition to their regular ambulance duties, they were required to make one-hour security rounds, usually twice a shift, and were required to watch for fire, theft, vandalism, and unauthorized personnel, although they reported violations to their department head, as opposed to taking action on their own. *Id.* The hospital had no other security force. *Id.* Here, surveillance techs make no rounds, and are required to watch for nothing other than issues affecting the surveillance system.

*MGM Grand Hotel*, 274 NLRB 139 (1985), essentially stands for the same proposition, i.e., that employees can be classified as guards notwithstanding the lack of physical confrontation, but does not otherwise assist the Employer's argument. In *MGM Grand*, the Board found that the operators were guards where the operators' primary duty was keeping the hotel safe for employees and guests. They monitored a safety system each shift, which included, among other things, door exit alarms, motion detectors, and a watch tour system. Moreover, they were part of the security department, were relieved by security officers for breaks and in the event of alarms, and were required to monitor and report possible security problems, infractions, and possible life-endangering situations. *Id.* at 139-140. The Board contrasted the case with other alarm cases, as the MGM operators notified security, but also dealt directly with employees in other departments such as engineering, and worked with security officers to determine the cause of, and to correct, the disturbance. *Id.* at 140 fn. 9.

As noted above, the security techs' responsibilities are completely different than those of the security officers, and contain none of the responsibilities for enforcing any of the Employer's rules beyond those of any other employee. Installing, altering, removing, and monitoring recording systems, even to assist others in their investigations, are insufficient reasons to conclude that the surveillance techs are guards. I am, therefore, refusing to classify the surveillance techs as guards who should be excluded from the petitioned-for unit on that basis.

The Employer moved to strike the Petitioner's closing comments regarding representation at other hotels. A ruling on the motion to strike is unnecessary as the Petitioner presented no evidence to consider in support of the comments, and the comments had no impact on my decision.

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The rulings at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.

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4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time surveillance techs at the Employer's facility, excluding all other employees, including office, clerical, professional, guards, and supervisors as defined in the National Labor Relations Act.

### **DIRECTION OF ELECTION**

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 501, AFL-CIO.

#### **A. Election Details**

The election will be held on July 7, 2015 from 12:00 PM to 3:00 PM at the Training Room A at the Employer's facility.

#### **B. Voting Eligibility**

Eligible to vote are those in the unit who were employed during the payroll period ending June 21, 2015, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

#### **C. Voter List**

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses,

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available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the Regional Director and the parties<sup>6</sup> by **Thursday, July 02, 2015**. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015).

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at [www.nlr.gov](http://www.nlr.gov). Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

#### **D. Posting of Notices of Election**

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the

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<sup>6</sup> At hearing, the Petitioner waived the requirement that it receive the voter list 10 days prior to the election.

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nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution. Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

### **RIGHT TO REQUEST REVIEW**

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 14 days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to [www.nlr.gov](http://www.nlr.gov), select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1099 14th Street NW, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated at Phoenix, Arizona, this 30<sup>th</sup> day of June 2015.

*/s/ Cornele A. Overstreet*

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Cornele A. Overstreet, Regional Director

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

BELLAGIO, LLC d/b/a BELLAGIO LAS VEGAS  
Employer

and

Case 28-RC-154081

INTERNATIONAL UNION OF OPERATING  
ENGINEERS, LOCAL 501, AFL-CIO  
Petitioner

ORDER

The Employer's Request for Review of the Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review.<sup>1</sup>

MARK GASTON PEARCE, CHAIRMAN

KENT Y. HIROZAWA, MEMBER

LAUREN McFERRAN, MEMBER

Dated, Washington, D.C., November 18, 2015.

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<sup>1</sup> In denying review, we reject the Employer's contention that the petition must be dismissed due to the Petitioner's failure to fill out section 7 of the petition form. See *Aria*, 363 NLRB No. 24 (2015).

For the reasons stated by the Regional Director, we agree that the petitioned-for employees are not guards within the meaning of Sec. 9(b)(3). In addition, we note that the Board and the courts have long rejected the notion that individuals should be deemed guards because their installation or maintenance of equipment is an integral part of a larger security system that other individuals actually operate. See, e.g., *Wells Fargo Alarm Services v. NLRB*, 533 F.2d 121, 124 (3d Cir. 1976); *American District Telegraph Co.*, 160 NLRB 1130, 1138 (1966). Further, the additional strike duties the Employer contemplates for the petitioned-for employees do not render them guards, because these additional duties do not involve guard functions. See *Boeing Co.*, 328 NLRB 128, 130 (1999).



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**Bellagio, LLC d/b/a Bellagio Las Vegas and International Union of Operating Engineers Local 501, AFL-CIO.** Case 28-CA-170899

May 23, 2016

**DECISION AND ORDER**

BY CHAIRMAN PEARCE AND MEMBERS HIROZAWA  
AND MCFERRAN

This is a refusal-to-bargain case in which the Respondent is contesting the Union's certification as bargaining representative in the underlying representation proceeding. Pursuant to a charge filed on March 1, 2016, by International Union of Operating Engineers Local 501, AFL-CIO (the Union), the General Counsel issued the complaint on March 21, 2016, alleging that Bellagio, LLC d/b/a Bellagio Las Vegas (the Respondent) has violated Section 8(a)(5) and (1) of the Act by failing and refusing to recognize and bargain with the Union following the Union's certification in Case 28-RC-154081. (Official notice is taken of the record in the representation proceeding as defined in the Board's Rules and Regulations, Secs. 102.68 and 102.69(d). *Frontier Hotel*, 265 NLRB 343 (1982).) The Respondent filed an answer admitting in part and denying in part the allegations of the complaint, and asserting affirmative defenses.

On April 5, 2016, the General Counsel filed a Motion for Summary Judgment. On April 6, 2016, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed a response.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

**Ruling on Motion for Summary Judgment**

The Respondent admits its refusal to bargain, but contests the validity of the Union's certification on the basis of its contentions, raised and rejected in the underlying representation proceeding, that (1) the Union's representation petition was invalid because it did not comply with Section 102.61(a)(8) of the Board's Rules and Regulations, (2) the unit is inappropriate because the surveillance technicians are guards within the meaning of Section 9(b)(3) of the Act and the Union represents nonguard employees of the Respondent, and (3) the unit

is inappropriate because the surveillance technicians are confidential employees.<sup>1</sup>

All representation issues raised by the Respondent were or could have been litigated in the prior representation proceeding. The Respondent does not offer to adduce at a hearing any newly discovered or previously unavailable evidence, nor does it allege any special circumstances that would require the Board to reexamine the decision made in the representation proceeding. We therefore find that the Respondent has not raised any representation issue that is properly litigable in this unfair labor practice proceeding. See *Pittsburgh Plate Glass Co. v. NLRB*, 313 U.S. 146, 162 (1941). Accordingly, we grant the Motion for Summary Judgment.

On the entire record, the Board makes the following

**FINDINGS OF FACT**

**I. JURISDICTION**

At all material times, the Respondent has been a limited liability company with an office and place of business in Las Vegas, Nevada (the Respondent's facility) and has been engaged in operating a hotel and casino providing food, lodging, gaming, and entertainment.

During the 12-month period ending March 1, 2016, the Respondent, in conducting its operations described above, purchased and received at the Respondent's facility goods valued in excess of \$50,000 directly from points outside the State of Nevada and derived gross revenues in excess of \$500,000.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

**II. ALLEGED UNFAIR LABOR PRACTICES**

**A. The Certification**

Following the representation election held on July 7, 2015, the Union was certified on October 28, 2015, as the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All full-time and regular part-time surveillance techs at the Employer's facility; excluding all other employees,

<sup>1</sup> The Respondent raises as an affirmative defense the assertion that the Board's November 18, 2015 Order in Case 28-RC-154081 did not rule on the Respondent's contention that the surveillance technicians are confidential employees. However, the Board's November 18, 2015 Order denied the Respondent's request for review of the Regional Director's Decision and Direction of Election because it raised no substantial issues warranting review, thereby affirming the Regional Director's finding that the Respondent failed to meet its burden of proof to establish that the surveillance technicians are confidential employees.

including office, clerical, professional, guards, and supervisors as defined in the National Labor Relations Act.

The Union continues to be the exclusive collective-bargaining representative of the unit employees under Section 9(a) of the Act.

#### *B. Refusal to Bargain*

At all material times, Beth Foster held the position of director of human resources and has been a supervisor of the Respondent within the meaning of Section 2(11) and an agent of the Respondent within the meaning of Section 2(13) of the Act.

At all material times, the senior associate general counsel labor & employment of MGM Resorts International held the position of legal counsel of the Respondent and has been an agent of the Respondent within the meaning of Section 2(13) of the Act.

On December 18, 2015 and February 26, 2016, the Union, by letters, requested that the Respondent recognize and bargain with it as the exclusive collective-bargaining representative of the unit.

Since about January 12, 2016, the Respondent, by letter, has failed and refused to recognize and bargain with the Union as the exclusive collective-bargaining representative of the unit.

We find that the Respondent's conduct constitutes an unlawful failure and refusal to recognize and bargain with the Union in violation of Section 8(a)(5) and (1) of the Act.

#### CONCLUSION OF LAW

By failing and refusing since about January 12, 2016, to recognize and bargain with the Union as the exclusive collective-bargaining representative of the employees in the appropriate unit, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

#### REMEDY

Having found that the Respondent has violated Section 8(a)(5) and (1) of the Act, we shall order it to cease and desist, to bargain on request with the Union and, if an understanding is reached, to embody the understanding in a signed agreement.

To ensure that the employees are accorded the services of their selected bargaining agent for the period provided by law, we shall construe the initial period of the certification as beginning the date the Respondent begins to bargain in good faith with the Union. *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962); accord *Burnett Construction Co.*, 149 NLRB 1419, 1421 (1964), *enfd.* 350 F.2d 57

(10th Cir. 1965); *Lamar Hotel*, 140 NLRB 226, 229 (1962), *enfd.* 328 F.2d 600 (5th Cir. 1964), *cert. denied* 379 U.S. 817 (1964).

#### ORDER

The National Labor Relations Board orders that the Respondent, Bellagio, LLC d/b/a Bellagio Las Vegas, Las Vegas, Nevada, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to recognize and bargain with International Union of Operating Engineers Local 501, AFL-CIO as the exclusive collective-bargaining representative of the employees in the bargaining unit.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain with the Union as the exclusive representative of the employees in the following appropriate unit on terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

All full-time and regular part-time surveillance techs at the Employer's facility; excluding all other employees, including office, clerical, professional, guards, and supervisors as defined in the National Labor Relations Act.

(b) Within 14 days after service by the Region, post at its facility in Las Vegas, Nevada copies of the attached notice marked "Appendix."<sup>2</sup> Copies of the notice, on forms provided by the Regional Director for Region 28, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed the facility involved in these

<sup>2</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."



BELLAGIO, LLC

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proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since January 12, 2016.

(c) Within 21 days after service by the Region, file with the Regional Director for Region 28 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. May 23, 2016

\_\_\_\_\_  
Mark Gaston Pearce, Chairman

\_\_\_\_\_  
Kent Y. Hirozawa, Member

\_\_\_\_\_  
Lauren McFerran, Member

conditions of employment for our employees in the following bargaining unit:

All full-time and regular part-time surveillance techs at our facility; excluding all other employees, including office, clerical, professional, guards, and supervisors as defined in the National Labor Relations Act.

BELLAGIO, LLC D/B/A BELLAGIO LAS VEGAS

The Board's decision can be found at [www.nlr.gov/case/28-CA-170899](http://www.nlr.gov/case/28-CA-170899) or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.



(SEAL) NATIONAL LABOR RELATIONS BOARD  
APPENDIX

NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

#### FEDERAL LAW GIVES YOU THE RIGHT TO

- Form, join, or assist a union
- Choose representatives to bargain with us on your behalf
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities.

WE WILL NOT fail and refuse to recognize and bargain with International Union of Operating Engineers Local 501, AFL-CIO as the exclusive collective-bargaining representative of the employees in the bargaining unit.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL, on request, bargain with the Union and put in writing and sign any agreement reached on terms and



United States Government

**NATIONAL LABOR RELATIONS BOARD**

**OFFICE OF THE GENERAL COUNSEL**

Washington, D.C. 20570

August 4, 2016

Mark J. Langer  
Clerk of the Court  
U.S. Court of Appeals for the District of Columbia Circuit  
E. Barrett Prettyman U.S. Courthouse  
333 Constitution Avenue, NW, Rm. 5423  
Washington, DC 20001-2866

Re: *Bellagio, LLC d/b/a Bellagio Las Vegas v. NLRB*  
D.C. Cir. Nos. 16-1191 and 16-1258  
Board Case No. 28-CA-170899

Dear Mr. Langer:

I am enclosing the certified list of the contents of the agency record in this case.

Very truly yours,

Linda Dreeben  
Deputy Associate General Counsel  
NATIONAL LABOR RELATIONS BOARD  
1015 Half Street, SE  
Washington, DC 20570  
(202) 273-2960

Encls.

cc: Gary C. Moss, Esq.  
Paul T. Trimmer, Esq.



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**UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

BELLAGIO, LLC d/b/a BELLAGIO LAS VEGAS)  
)  
Petitioner/Cross-Respondent )  
)  
v. ) Nos. 16-1191 and 16-1258  
)  
NATIONAL LABOR RELATIONS BOARD )  
)  
Respondent/Cross-Petitioner )

**CERTIFICATE OF SERVICE**

I hereby certify that on August 4, 2016, I filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for District of Columbia Circuit by using CM/ECF system. I certify that the foregoing document was served on all parties or their counsel of record through the appellate CM/ECF system.

/s/ Linda Dreeben  
Linda Dreeben  
Deputy Associate General Counsel  
NATIONAL LABOR RELATIONS BOARD  
1015 Half Street, SE  
Washington, DC 20570

Dated at Washington, DC  
this 4th day of August 2016